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# AMENDING THE STANDARD CONTAINER ACT OF 1928

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## HEARINGS BEFORE THE COMMITTEE ON SCIENCE AND ASTRONAUTICS U.S. HOUSE OF REPRESENTATIVES EIGHTY-EIGHTH CONGRESS FIRST SESSION ON H.R. 5792 SUPERSEDED BY H.R. 9334

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OCTOBER 2 AND DECEMBER 3, 1963

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[No. 7]

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Printed for the use of the Committee on Science and Astronautics



U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1963

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## H.R. 5792, 88TH CONGRESS, 1ST SESSION

A BILL To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first sentence of the first section of the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (15 U.S.C. 257), is amended—

(1) by striking out "One-eighth bushel" and inserting in lieu thereof "One-sixteenth bushel, one-eighth bushel";

(2) by inserting "seven-eighths bushel," immediately after "three-fourths bushel,"; and

(3) by inserting "one-and-one-eighth bushels," immediately after "one bushel,".

(b) The first section of such Act of May 21, 1928 (15 U.S.C. 257), is further amended—

(1) by redesignating paragraph (a) as paragraph (aa) and by inserting immediately preceding such paragraph the following new paragraph:

"(a) The standard one-sixteenth bushel hamper or round stave basket shall contain one hundred and thirty-four and four-tenths cubic inches.";

(2) by inserting immediately after paragraph (d) the following new paragraph:

"(dd) The standard seven-eighths bushel hamper or round stave basket shall contain one thousand eight hundred and eighty-one and sixty-two one-hundredths cubic inches."; and

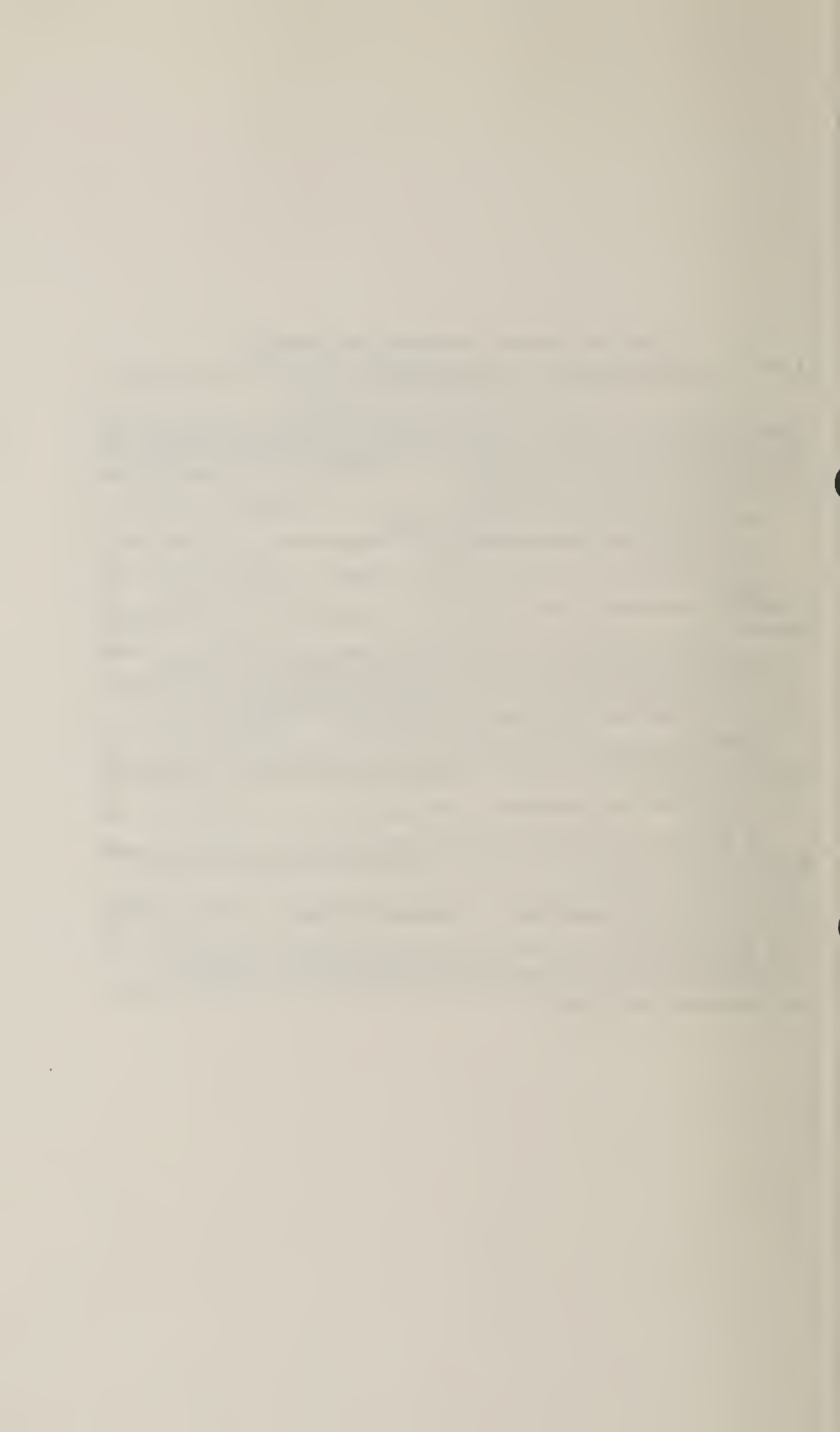
(3) by inserting immediately after paragraph (e) the following new paragraph:

"(ee) The standard one-and-one-eighth bushel hamper or round stave basket shall contain two thousand four hundred and nineteen and twenty-two one-hundredths cubic inches."

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "fourteen-quart basket," immediately after "twelve-quart basket,".

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."





# AMENDING THE STANDARD CONTAINER ACT OF 1928

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WEDNESDAY, OCTOBER 2, 1963

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SCIENCE AND ASTRONAUTICS,  
*Washington, D.C.*

The committee met at 10 a.m., pursuant to call, in room 214-B, Longworth Building, Hon. George P. Miller (chairman) presiding.

The CHAIRMAN. The committee will be in order.

This morning we will take up the legislative item, an amendment to the Standard Container Act of 1928. We have identical bills proposing these amendments; four of them sponsored by members of this committee and the fifth sponsored by our colleague, the gentleman from Florida, Congressman Matthews.

The first witness this morning will be our colleague, Hon. D. R. (Billy) Matthews, of Florida. Others to be heard on the matter: Mr. Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture; Dr. R. D. Huntoon, Deputy Director, National Bureau of Standards; Mr. Alvin A. Voges, secretary-manager of the American Veneer Package Association.

Following the disposition of this matter we will pass on to H.R. 5838 and S. 1064, both of which Dr. Huntoon will be a witness.

The first witness then that I am very happy to call is our colleague, Hon. D. R. (Billy) Matthews, of the great State of Florida.

## STATEMENT OF HON. D. R. MATTHEWS, MEMBER OF CONGRESS, STATE OF FLORIDA

Mr. MATTHEWS. Mr. Chairman and gentlemen of the committee, please, first of all, let me thank you sir, for having a hearing on this bill and for the privilege of testifying for it.

H.R. 5792, as the chairman has said, gentlemen, is the bill under discussion and as he has also said four distinguished members of this committee have introduced identical legislation.

As I'm sure most of us know, the principal containers for the packing and shipping of fresh fruits and vegetables are baskets and hampers, wirebound crates, nailed wood boxes, and corrugated cartons. Basket and hamper sizes are regulated under legislation enacted in 1928. The sizes and shapes of wirebound crates, nailed wood boxes, and corrugated cartons, are not similarly regulated and manufacturers of these containers can, and reportedly do, make any size and shape of container their customers desire. Considerable attention has recently been devoted to congressional hearings on unfair and deceptive packaging and labeling of food and other items. Some rather unhappy conditions existed in this regard when in 1928 the Standard

Container Act was passed. Both prior to and since that time, considerable effort has been devoted to standardization of all types of containers for fruits and vegetables.

When this legislation was enacted back in 1928 coverage extended over most of the container field, however, today this act which H.R. 5792 proposes to amend pertains to the containers of only about 10 percent of the fruits and vegetables shipped to terminal markets.

The containers for the remaining 90 percent are unregulated. Moreover, the standardization of crates, boxes, and cartons, has not developed due to certain opposition and we find then that containers regulated under the Standard Container Act of 1928 are placed in a rather unfavorable competitive position. Those who manufacture wooden round stave baskets and hampers and splint baskets, may I emphasize, Mr. Chairman, have no quarrel whatsoever, with the act of 1928, and the intent of the act.

Let it be said, of course, there are some disadvantages encountered by these manufacturers due to its enforcement, but in the industry, the industry sincerely believes the act of 1928 has effectively reduced the number of sizes and possible deceptive appearance of baskets and hampers regulated under the act. This is very much to the good.

Before the 1928 legislation there were approximately 75 different sizes and shapes of hampers. I don't know just how familiar we are with these items we are talking about. We have a little picture here of hampers and round stave baskets and splint baskets. When Mr. Hedlund testifies, Mr. Chairman, I am sure he will explain more in detail and I might want to pass this little picture around to the members of the committee so they can see it. But let me emphasize again now, before the 1928 legislation there were approximately 75 different sizes and shapes of hampers, some 20 to 25 sizes of round stave baskets and an equal number of splint baskets in more or less common use.

The act reduced this number to nine sizes. It was amended to 10 in 1954 for baskets and hampers and 6 sizes splint baskets. The act further provided for the protection of the public by indicating regulated containers should not be deceptive in appearance. Baskets and hampers are in  $\frac{1}{8}$ -bushel gradations from  $\frac{1}{8}$  bushel through  $1\frac{1}{4}$  bushel but exclude the  $\frac{3}{8}$  bushel and  $1\frac{1}{2}$  bushel sizes. One and one-half and two bushel sizes are also permitted.

Splint baskets are limited to 4-, 8-, 12-, 16-, 24-, and 32-quart sizes. The general adequacy of these size ranges is supported by the fact only once in over 35 years' time has Congress been asked to amend standard container legislation. That was in 1954 when three-eighths bushel baskets and hampers were added. However, between 1928 and 1963 substantial changes have occurred in marketing conditions and practices. These changes have created a need or demand for additional sizes of containers, containers which by present law cannot be supplied by makers of wood round stave baskets and hampers and splint baskets but which can be produced by their regulated competitors.

H.R. 5792 and the other bills before the committee, propose to amend the Standard Container Act of 1928 to permit the manufacture and use of and baskets hampers of the sizes  $\frac{1}{16}$  bushel,  $\frac{3}{8}$  bushel and  $1\frac{1}{8}$  bushels and a 14-quart splint basket.

Representatives of the industry, I'm sure, will justify these specific justifications of these sizes. So, in other words, Mr. Chairman, all

this legislation proposes to do is to grant to the manufacturers of these containers the privilege of manufacturing these several extra sizes. It's my understanding that perhaps the industry this morning would beg your indulgence in permitting them to ask for one other additional size to take care of some shipments to Canada.

May I say that if that be true, as author of this legislation I would certainly be in favor of that. I would have no objection to it.

Let me emphasize, Mr. Chairman, this legislation does not want to do away with any of the regulation that was made possible by the act of 1928. It's just to give to the industry these several extra sizes of containers. It's my understanding that the Departments of Agriculture, Commerce, and Health, Education, and Welfare, have all responded favorably to this legislation; but with a suggestion that the container size be stamped on each container.

And, may I say, as author of this particular bill, I certainly would have no objection to that amendment if the committee saw fit to include it.

It's my sincere belief that the passage of this legislation would permit a relatively small industry to make several sizes of baskets and hampers not now permitted. The manufacture of these sizes would allow them to compete on a more favorable basis with their competitors who require no such legislative sanction.

I believe it is noncontroversial and I myself have found no opposition to this legislation.

Mr. Chairman, thank you so much for this privilege of being with you this morning.

The CHAIRMAN. Thank you, Mr. Matthews.

Are there any questions of Mr. Matthews?

Mr. FULTON of Pennsylvania. I have one.

Under what clause does this regulation occur? Is it the commerce clause?

Mr. MATTHEWS. I would say, Mr. Hedlund—is it the commerce clause?

It's under the weights and measures clause of the Constitution, I believe, Mr. Fulton. Let me hasten to say, sir, I am not a lawyer and I may have to get some help to answer some of these questions. I say that very frankly.

But that's one answer that it would seem to me to be rather logical.

The CHAIRMAN. The enforcement of this is in the Department of Agriculture.

Mr. MATTHEWS. Yes, sir, that is correct, Mr. Chairman.

Mr. FULTON of Pennsylvania. I imagine both are under weights and measures as well as under the commerce clause.

Mr. MATTHEWS. That sounds logical.

Mr. FULTON of Pennsylvania. The next question is, Why can't the States regulate this packaging and container size? Why does the Federal Government have to expand its authority?

Mr. MATTHEWS. May I say that the question is most interesting to me because I don't believe in the Federal Government participating in these matters any more than necessary but again I say the answer would be these articles move in interstate commerce shipped, of course, to all the States and into some foreign countries, I believe.



Mr. FULTON of Pennsylvania. It is refreshing to find somebody south of the Mason-Dixon Line in Congress recommending expansion of the commerce clause of the U.S. Constitution—I congratulate you.

Mr. MATTHEWS. I say to my beloved and distinguished colleague, the gentleman from Pennsylvania, that this does not involve any expansion of the commerce clause.

Mr. FULTON of Pennsylvania. What will this legislation cost budget-wise for the Federal Government?

Mr. MATTHEWS. In my opinion it would be a very relative and minor cost. Mr. Hedlund of the Department will testify later as an expert witness.

If you ask Mr. Hedlund, I am sure he could answer that.

Mr. FULTON of Pennsylvania. How do you enforce such a statute? What kind of penalties are there?

I will delay that also.

Mr. MATTHEWS. Mr. Fulton, again, I would be grateful if you would ask the expert witness who is going to testify a little later. Frankly, I just do not have the answers at this time.

Mr. FULTON of Pennsylvania. Is a requirement of stamping on the container, the size, and so forth, an interference with the freedom of contract?

Mr. MATTHEWS. It would be my opinion it would not. I think all of us who are proposing this legislation want to do everything possible to see that the consumer is not deceived or the customer is not misled. Let me emphasize, I am sure there would be very little deception without the stamping of the container size; but I think the industry would certainly agree to the stamping of the container size if this committee felt the customer should be protected in that regard.

Let me emphasize I believe there would be very little deception. I don't know how desirable and necessary it is, but the departments have recommended that be done as you recall.

Mr. FULTON of Pennsylvania. That would cause me some legal concern. If the requirement of container size is not connected with the prevention of a deception on the purchasing—

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. FULTON of Pennsylvania. Yes, sir.

Mr. FUQUA. Mr. Fulton, I have in a proposed amendment—you have on your desk—I planned to offer it at an appropriate time; that will require the size to be stamped on and it will be crystal clear; the consumer will not be deceived. I understand most all manufacturers of these voluntarily stamp the size on, but this will make it mandatory, so if it's on a 5-pound bag of sugar or something you buy in the store the consumer will have a knowledge of what the contents are.

The CHAIRMAN. Would the gentleman yield?

Mr. FULTON of Pennsylvania. Yes.

The CHAIRMAN. May I call your attention to the fact all canned goods must have the contents stamped on them and that in the case of the sale of any types of liquor under the Federal law the contents of the bottle must be put on the bottle. It is a good precedent for what is being done here.

I think this has been carried out in other areas. This is an application in this particular case.

Mr. FULTON of Pennsylvania. Of course, on the statutory basis when we are expanding Federal power, I want to see there are certain

limits set and as you have all pointed out these powers can be expanded into other fields so that being a southern Congressman from south Pittsburgh, I want to see that we are not unduly expanding the commerce clause because if I send a box of candy to a colleague signed "bushels of love," it is a container, so I might have to designate the number of bushels.

Mr. MATTHEWS. I think the gentleman's point is very well taken.

The CHAIRMAN. May I remark, the gentleman is a bachelor and nobody but a bachelor would think of that.

Mr. WAGGONER. Mr. Chairman, may I remark, I hope the gentleman won't have the same attitude when we attempt to expand the commerce clause 7182.

Mr. FULTON of Pennsylvania. May I comment on this?

The CHAIRMAN. This is not before this committee.

Mr. FULTON of Pennsylvania. As a matter of fact, I do feel the commerce clause is being unduly expanded and it should not reach into every facet of every industry and the lives of all the people so that I am against the Federal Government overreaching on the commerce clause and that's a very amazing statement to say, but I think it is an error of the present administration to talk about expanding the commerce clause; I think we are in a precedent-setting point here. We should examine rather closely to see that we are not expanding the commerce clause unduly.

The question then comes; why don't the States handle these problems themselves and, secondly, why don't the particular industries set their own standards on a voluntary basis so that we do not have the requirement of Federal control.

Mr. MATTHEWS. I think the industry would just be very, very delighted to handle all these matters on a voluntary basis but, of course, the answer to that is that Congress in its wisdom back in 1928 said, "You can't do it." And then again the only answer I believe I could give as to why we should have this type of Federal control is it is an example of goods moving in interstate commerce and I don't believe this legislation would establish any precedent but it rather is just a continuance of the precedent already established. May I again very humbly say, as the gentleman knows, I am not a lawyer.

Mr. FULTON of Pennsylvania. You do very well. You are an expert on various things, I believe. You are one of the experts on boiled peanuts.

The CHAIRMAN. Let's hurry along.

Mr. FULTON of Pennsylvania. We should point out that this legislation only applies to goods in interstate commerce and therefore does not apply to containers within States when the goods are not contemplated to cross State lines. Is that not correct?

Mr. MATTHEWS. Well, I would say to the gentleman—I don't believe I would agree there. I would imagine some of these goods are shipped within the State. Many of the vegetables would stay right within the State but since—

Mr. FULTON of Pennsylvania. I will ask the Department witness for that.

Mr. MATTHEWS. If you would, please. My own feeling would be it would be a partial movement within the State and then partial interstate movement.



Mr. FULTON of Pennsylvania. You do not feel this is adding something on interstate commerce which is an added burden?

Mr. MATTHEWS. No, I do not think it is an added burden.

Mr. DAVIS. Mr. Chairman, will the gentleman yield on that point?

Mr. FULTON of Pennsylvania. Yes.

Mr. DAVIS. I would like to read from a section of the Constitution designated arbitrarily section 120 in this little book compiled by Lewis Deschler. This section of the Constitution gives the power to the Federal Government to coin money, to regulate the value thereof and of foreign coin, and fix the standard of weights and measures.

Now, this strikes me as being purely and simply performing one of the functions which was granted by the Original Colonies to the Federal Government and that is to fix a standard of measures.

I can't see how the commerce clause is involved. That was one of the things our Founding Fathers quite readily perceived to be a necessary function of a central government and that would be to have measures that applied in all of the—what were then Colonies and what are now States.

The CHAIRMAN. Would the gentleman yield?

Mr. DAVIS. Well, Mr. Fulton has the floor.

The CHAIRMAN. You are just about going to lose it. Your 5 minutes is up.

Mr. FULTON of Pennsylvania. We formerly said it was under the weights and measures clause of the Constitution. My question was, Is it also under the commerce clause?

Mr. DAVIS. You brought that in. I say it does not need to be brought in. It's not involved.

The CHAIRMAN. Mr. Hechler?

Mr. HECHLER. Does the gentleman agree if this were done by State laws or by voluntary action in private industry, you would have a hodge-podge of differing standards and the whole purpose of having it done by the Federal Government is to provide a uniform system?

Mr. MATTHEWS. I think the gentleman is correct, yes.

The CHAIRMAN. Will you yield? I was going to say there'd be a little confusion down in Miami if we brought down there and tried to sell a Los Angeles lug, though. This is a container we use in intrastate California. Doesn't go outside the State.

Any other—Mr. Patten?

Mr. PATTEN. Well, the statement, Mr. Hedlund is going to give makes it plain this is just like coining money. The Federal Government has a duty to fix this. This applies to intrastate as well as interstate.

The CHAIRMAN. Well one forces the other. Any questions?

Mr. Mosher?

Mr. MOSHER. The growing and marketing of fruits and vegetables is an extremely important industry in my area of Ohio and I'm interested in the statement that this is noncontroversial legislation because I sent the bill out to several spokesmen for the industry there and their immediate reaction, although they admit it was uninformed reaction, was in opposition to the bill. They said that they had not been informed of this legislation in any way. There was no demand or need for changes in our area and they were very fearful that the net result in our area at least would be complication and confusion that would

not be necessary, that would not only confuse the industry, but confuse the public.

They raised very seriously the question of the public being misled by these new sizes. Now, the marking of the baskets might help, but pending further word from them on the basis of the testimony I will send them from today's committee hearing, I would think I would have to be in opposition to the legislation.

The CHAIRMAN. Thank you. Mr. Randall?

Mr. RANDALL. Thanks again to our colleague, Mr. Davis, for bringing this out. The point which carries on the decisions of the Supreme Court here told the question of States rights is not involved. It is a Federal right. It is a constitutional right to establish these within the State and not interstate commerce involved whatsoever.

The CHAIRMAN. Any other questions?

Mr. DAVIS. Mr. Chairman, may I ask Mr. Matthews a question?

The CHAIRMAN. I just recognized Mr. Rumsfeld.

Mr. RUMSFELD. I'd be happy to yield.

Mr. DAVIS. I simply want to ask Mr. Matthews if he knows where these containers are manufactured. Are they manufactured in the same areas where the fruit is grown or shipped in from other areas?

Mr. MATTHEWS. If I may, in an aside, sir, consult with a representative of the industry and let me say that I think they would be in other areas sometimes close by.

If you will just give me 1 minute.

May I add to that now, sir, the manufacturers ship these cartons sometimes close to where the vegetables are, but at other times at some distance and across State lines.

Mr. DAVIS. Well, Mr. Matthews, my question had in mind a little more practical political implications, which is: Which congressional districts will be affected? Where are these baskets made?

Mr. MATTHEWS. If the gentleman again will wait until the representative of the industry gets here—

Mr. DAVIS. I will be glad to.

Mr. MATTHEWS. I believe he can supply that information and let me say I know he will be glad to.

Mr. RUMSFELD. Mr. Chairman, Mr. Matthews mentioned letters in addition to Commerce, Agriculture, and HEW. Are these letters available?

The CHAIRMAN. We are going to hear the other witnesses as soon as Mr. Matthews has finished.

Mr. RUMSFELD. I see. There is not a letter he sent as he suggested.

The CHAIRMAN. We have the reports that have come in and they are available.

Mr. ROUDEBUSH. Mr. Chairman, I certainly want to congratulate Mr. Matthews on his appearance here today and, as he pointed out in his opening remarks, I am an author of a similar piece of legislation, H.R. 7709. I think this is good legislation. I think one thing probably escapes or maybe has escaped the members' attention is the fact that this regulation will affect the containers used in only about 10 percent of the shipments of fruits and vegetables. Actually now fiberboard or what we call cardboard cartons are already free and can use many sizes that can't be used by the maker of this particular type of container.

This merely gives the manufacturer of this type of container the authority to use different and additional size containers for shipment

in interstate commerce. It gives industry the right to compete with sizes and containers already in use, generally in about 90 percent of the shipments.

I think it's good legislation. I think it is permitting a very fine industry to compete with a competing type of container. I recommend its acceptance by this committee. I think it's good legislation.

I congratulate the gentleman, the first author, of legislation in behalf of this problem.

The CHAIRMAN. I am recognizing Mr. Mosher.

Mr. MOSHER. Mr. Chairman, I raise one question. I realize this sort of legislation is brought about because of the tricks of the trade, if for no other reason. I can't help comment on Mr. Davis' quotation from the Constitution when he says the Constitution delegates to the Central Government the authority to establish the standards for weights and measures; to me it is conceivable what the framers of the Constitution had in mind was, that the Federal Government could say 16 ounces make a pound and 4 quarts make a gallon. That is as far as they intended for them to go and maybe we are, as Mr. Fulton says, going just a little bit further.

The CHAIRMAN. Thank you.

Mr. FULTON of Tennessee. Would you yield?

Mr. FULTON of Pennsylvania. I already yielded back my time, but if the chairman will allow me to yield I will.

The CHAIRMAN. I think we have to move along.

Mr. GURNEY. Mr. Chairman.

The CHAIRMAN. Mr. Gurney?

Mr. GURNEY. I don't think much can be added to the very able presentation Mr. Matthews of Florida has made to describe the issues involved. I simply want to lend my own support to the legislation, having introduced one of the bills. It seems to me it's very simply a question of one group of people who manufacture containers are at a disadvantage with another group who manufacture containers, because the group who is here asking for this legislation are regulated by the Federal Government and the other group aren't, and it would seem very fair for the committee to give a more competitive position to this group here before us.

In answer to the point made by our colleague, Mr. Mosher, I think it is well to point this out; it's hard to see where the fears of his correspondents really have too much weight because the sizes now authorized are 16 in number and the people here before us are asking for new sizes of only 4 in number. So, it's hard to see where that could confuse the public a good deal. I think it's good legislation and I hope the committee passes it.

The CHAIRMAN. Any others who haven't spoken?

Mr. FULTON of Tennessee. I would just like to compliment the author of this bill and associate myself with it, for I think it will have more far-reaching effects. It will benefit the consumer as well as those people engaged in the production of the baskets and the packaging of these fruits and vegetables.

The CHAIRMAN. Thank you very much, Mr. Matthews for doing a good job.

Mr. FULTON of Pennsylvania. May I thank Mr. Matthews for an excellent appearance.

At this point I would like to file for the record the statement of Hon. Oren Harris of Arkansas, who is unable to appear this morning.



(The statement referred follows:)

**STATEMENT OF HON. OREN HARRIS, MEMBER OF CONGRESS, STATE OF ARKANSAS,  
CHAIRMAN, INTERSTATE AND FOREIGN COMMERCE COMMITTEE**

Mr. Chairman, I appreciate very much the opportunity to present to you and your committee my feelings about the proposed new container standards set forth in H.R. 5792.

The reasons for the proposed new sizes have been explained carefully by other witnesses, and I do not want to consume more of the committee's time in reiteration of the need. The competitive position of an established industry is at stake. Unregulated container manufacturers have no limitations on the container sizes they may market, and are, as a result, making substantial inroads on established and regulated producers of containers because they have been able to adapt more readily to the changing preferences of their customers.

The industry seeking this legislation designed to expand their range of container sizes has not sought any changes since 1954. They now find themselves in a position where their support of and compliance with regulation of container sizes is working a great hardship on them. They do not propose to eliminate controls or standards. They only ask for four additional containers which will enable them to meet the requirements of their customers in a continually changing market.

The producers of certain products find that it would be of great benefit to them to have a container just a little smaller than the one authorized under present standards. For example, in my area this would apply in the packaging and marketing of peaches.

It is found that in the transportation and marketing of peaches, this additional size, though only slightly smaller, would contribute greatly to convenience and efficiency. It is a matter of being realistic in meeting the changing needs of producers and packagers.

Mr. Chairman, I strongly urge favorable consideration for this very reasonable request.

The next witness will be Mr. Floyd F. Hedlund.

The CHAIRMAN. Mr. Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture. You have a prepared statement, I believe.

**STATEMENT OF FLOYD F. HEDLUND, DIRECTOR, FRUIT AND  
VEGETABLE DIVISION, AGRICULTURAL MARKETING SERVICE,  
U.S. DEPARTMENT OF AGRICULTURE**

Mr. HEDLUND. Mr. Chairman and members of the committee, my name is Floyd F. Hedlund, Director of the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture. I have a brief statement to make on H.R. 5792.

The act of May 21, 1928, as amended (15 U.S.C. 257-257i)—sometimes referred to as the Standard Container Act of 1928—establishes certain sizes for hampers, round stave baskets, and splint baskets used for fresh fruits and vegetables. This act provides that it shall be unlawful to manufacture for sale or shipment, to offer for sale or shipment, or to ship any of the listed containers, either filled or unfilled, that do not comply with the specifications of the statute. The law was enacted under the weights and measures clause of the Constitution and, hence, applies to intrastate as well as interstate transactions.

The major objectives of the act of May 21, 1928, are (1) to restrict the manufacture of hampers, round stave baskets, and splint baskets to certain listed sizes, and (2) to assure that those manufactured shall meet the capacity requirements established by this act.

Since the enactment of the Standard Container Act of 1928, only one new container size has been added under the act—a  $\frac{3}{8}$ -bushel round stave basket or hamper—added by an amendment of June 28, 1954.

The act of 1928 establishes 10 standard sizes for hampers or round stave baskets; it also provides for 6 standard sizes of splint baskets. H.R. 5792 would amend the act of 1928 by providing for three additional sizes of hampers and round stave baskets (one-sixteenth bushel, seven-eighths bushel, and  $1\frac{1}{8}$  bushels), as well as one additional size for splint baskets (14 quart). If H.R. 5792 were enacted, this would mean that (by adding the  $\frac{7}{8}$ -bushel and the  $1\frac{1}{8}$ -bushel sizes) hampers and round stave baskets could then be manufactured in  $\frac{1}{8}$ -bushel capacity intervals from the  $\frac{1}{8}$ -bushel size through the  $1\frac{1}{4}$ -bushel size.

At present, splint baskets may be manufactured in 4-quart capacity intervals from the 4-quart size up to the 16-quart size. For larger sizes, there are 8-quart capacity intervals. Addition of the 14-quart splint basket, as proposed in H.R. 5792, would result in 2-quart capacity intervals between the 12-quart and the 16-quart sizes.

The Department has received no information from fruit and vegetable growers, shippers, receivers, or other potential users of the container sizes proposed in H.R. 5792 to indicate an interest in or need for these additional containers.

The Standard Container Act of 1928 was enacted at a time when bulk shipment of produce, such as potatoes and cabbage, was common and when baskets and hampers were used for a large part of the fresh fruits and vegetables shipped in containers. However, since the passage of the act of 1928, there have been many changes in shipping containers for fresh produce. New containers not in existence at that time have been developed and have become important factors in the handling of fresh fruits and vegetables. Among the types of containers now most commonly used are numerous different kinds of nailed and wirebound crates, lugs, boxes, fiberboard cartons, and bags. These containers may be manufactured in any size or shape as they are not regulated by Federal law. It is estimated that, at the present time, considerably less than 10 percent of the fresh fruits and vegetables are shipped in containers regulated under the act of 1928.

Since the proponents of H.R. 5792 state that the principal reason for requesting authority for manufacture of additional sizes of hampers, round stave baskets, and splint baskets is to meet the competition from other types of containers, consideration might well be given to removing all restrictions of the Standard Container Act of 1928 by repeal of the act.

The only Federal statutes establishing standard sizes for fresh fruit and vegetable containers, other than the act of May 21, 1928, are the act of August 31, 1916 (15 U.S.C. secs. 251–256)—called the Standard Container Act of 1916—and the Standard Barrel Act, approved August 23, 1923. Barrels have become obsolete in shipping containers for fresh fruits and vegetables. The Standard Container Act of 1916 establishes standard sizes for climax baskets, till baskets, and berry boxes for small fruits, berries and vegetables. These are commonly used as retail packages. On the other hand, packages authorized under the Standard Container Act of 1928 are primarily



shipping containers used in wholesale trade and, with the exception of the smaller sizes, are not used as retail packages.

Section 4 of the Standard Container Act of 1928, provides that the specifications of containers covered by the act shall be approved by the Secretary of Agriculture if such containers are of the prescribed capacity and not deceptive in appearance. This approval is given in the form of a certificate of approval which bears a factory identification number which may be used by the manufacturer to identify the containers. The use of this factory identification number is not compulsory. However, manufacturers usually stamp each container produced with the factory identification number to show that the sample container has been submitted to and approved by the U.S. Department of Agriculture. The certificate of approval is issued only after the dimension specifications are submitted by the manufacturer and after examining the container to determine that it is of proper capacity and not deceptive in appearance.

No samples or suggested dimension specifications for the new sizes of containers proposed in H.R. 5792 have been submitted to the Department and, for this reason, we are not in a position to determine whether they would be deceptive in appearance when compared with the containers now permitted under the act.

In order to minimize the possibility of deception, however, it is recommended that the act be amended to require manufacturers to stamp the capacity on each container permitted to be manufactured under the act. With the many gradations in sizes of containers available, we believe that the differentiation of one size of container from another through the suggested marking is necessary and desirable. Therefore, we suggest that the portion of the first sentence of section 5 of the Standard Container Act of 1928 (15 U.S.C., sec. 257d) which precedes the word "*Provided*" be amended to read as follows:

That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits and vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked thereon and do not otherwise comply with this act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this act: \* \* \*

Department regulations issued pursuant to the Standard Container Act of 1928 presently provide a manner in which containers may be marked or identified by the manufacturer but such marking is optional.

The Department believes H.R. 5792 should be considered in the light of the extensive changes in the types of shipping containers used for fresh fruits and vegetables which have taken place since enactment of the act of May 21, 1928. Of particular significance is the fact that many new types of containers, not regulated as to size or capacity under Federal law, have come into common use, while hampers, round stave baskets and splint baskets which were extensively used in 1928, now are used for well under 10 percent of fresh fruit and vegetable shipments.

While the Department does not object to the enactment of H.R. 5792, we believe that each container covered by the act of May 21, 1928, should be stamped or marked as to the capacity thereof.

Exhibit A attached indicates the sizes of containers now authorized by the Standard Container Act of 1928 and the additional sizes proposed under H.R. 5792.

## EXHIBIT A

## SIZES OF CONTAINERS AUTHORIZED UNDER STANDARD CONTAINER ACT OF 1928 AND ADDITIONAL SIZES PROPOSED UNDER H.R. 5792

SIZES NOW AUTHORIZED

$\frac{1}{8}$ -bushel	hamper	or	round	stave	basket
$\frac{1}{4}$ -bushel	hamper	or	round	stave	basket
$\frac{3}{8}$ -bushel	hamper	or	round	stave	basket
$\frac{1}{2}$ -bushel	hamper	or	round	stave	basket
$\frac{5}{8}$ -bushel	hamper	or	round	stave	basket
$\frac{3}{4}$ -bushel	hamper	or	round	stave	basket

1-bushel hamper or round stave basket

1¼-bushel hamper or round stave basket

1½-bushel hamper or round stave basket

2-bushel hamper or round stave basket

4-quart splint basket

8-quart splint basket

12-quart splint basket

16-quart splint basket

24-quart splint basket

32-quart splint basket

SIZES PROPOSED TO BE ADDED UNDER  
H. R. 5792

$\frac{1}{16}$ -bushel hamper or round stave basket

$\frac{7}{8}$ -bushel hamper or round stave basket

1 1/8-bushel hamper or round stave basket

14-quart splint basket

The CHAIRMAN Mr. Hedlund, the Secretary of Agriculture has the responsibility for administering the provisions of the Standard Container Act. Does the amendment proposed by these bills simplify the administrative procedure in this respect?

Mr. HEDLUND. No, I don't think it would simplify it. Neither do I think it would make it any more difficult. We merely certify as to the sizes and dimensions of containers that are submitted and approve them for manufacture. This would provide a few additional containers but I doubt if the difference would be of any significance.

The CHAIRMAN. What we are really doing is moving the present law ahead to meet the current conditions in the trade, in many cases as a result of new techniques of manufacturing, are we not? Some years ago, nearly all of these things were put into wooden baskets or stave baskets. Now a minimum go into it. Is that not correct?

Mr. HEDLUND. Yes, that's true, Mr. Chairman. As I understand it, the main reason here that the proponents would like this legislation is to provide those sizes of containers that their competitors are providing and they want to meet the competition.

The CHAIRMAN. Trying to meet the competition.

Mr. STAEBLER. Mr. Chairman.

The CHAIRMAN. Any questions? Mr. Staebler.

Mr. STAEBLER. Yes, I would like to refer to the paragraph that begins on the bottom of page 2 in Mr. Hedlund's statement. He is developing the point here, and I wonder if I understand it thoroughly; that the other containers—other, that is, than these baskets and hampers, are not subject to regulation as to size. Is that right, Mr. Hedlund? Do I understand this correctly?

Mr. HEDLUND. They are not subject to any regulation under Federal law. There may be, in some instances, some regulations under State law.

Mr. STAEBLER. But none under Federal law. All the other types of containers, that is, fiberboard, wirebound crates, wooden boxes—these are not subject to regulation?

Mr. HEDLUND. That's correct.

Mr. STAEBLER. Do I understand also that these unregulated containers carry something like 90 percent of the fresh fruits and vegetables that are sold?

Mr. HEDLUND. Yes, sir, that is our estimate.

Mr. STAEBLER. And the regulated containers only 10 percent?

Mr. HEDLUND. Yes, sir, we estimate it is less than 10 percent. We have no way of knowing absolutely the precise amount that is carried in these containers.

Mr. STAEBLER. When we say that the 90 percent are unregulated, do we mean that literally or is there some kind of practice that is subject to control—is it subject to the matter that the chairman mentioned, a while ago, that these other containers do have to carry a stamp indicating the size, and contents?

Mr. HEDLUND. What I meant, sir, is that they are not regulated in the sense that they have to comply with any particular size or dimensions.

Now, obviously, a person cannot market something in a carton and put half a bushel in it and call it 1 bushel. Certainly, they can't do that under regulations that prohibit misrepresentation. But, there is no regulation that says that they have to meet a particular size or a particular dimension.

Mr. STAEBLER. So that the 90 percent of the containers are subject only to administrative control. Is that what you are referring to? The kind of control that the Department of Agriculture presumably maintains?

Mr. HEDLUND. Well, I'm trying to say they can't be deceptive. For example, you can take a bag of potatoes. Potatoes can be marketed in any size bag that the person wants to market, but he has to—if he labels it at all, he's got to show the correct contents of it. If it is labeled a hundred pounds then it has to contain a hundred pounds of potatoes.

Mr. STAEBLER. What are these regulations that require the marking—this is a missing piece of information. If I did more shopping at supermarkets maybe I'd know the answer. What is it?

Mr. HEDLUND. Well, the marking regulations, sir, are primarily the concern of the Food, Drug, and Cosmetic Act. It requires the labeling of packages. We have an act administered by the Department of Agriculture known as the Perishable Agricultural Commodities Act and it provides that nobody can misrepresent by labels or otherwise any of the commodities covered by that statute. In other words, if somebody is marketing potatoes in hundred pound bags and marks it "hundred pounds" he can't put in less than that under that particular statute, but the general labeling requirements most generally used are those in the Food and Drug Act.

Mr. STAEBLER. Do I gather the difference between the two types of containers that might account for this difference in treatment, is that all the other containers are closed containers and, therefore, when you stamp them you have indicated what's inside; whereas the containers we are talking about here are open containers and is there some difference in control for that reason?



Mr. HEDLUND. No, sir; I don't think I could quite agree with you. Most of these containers we are concerned with here are used as closed containers. There is a lid on that bushel basket of peaches when it is sent to market and that lid is quite well fixed so that it can't pop off easily.

I think the main distinction between the regulated and the non-regulated containers is that the regulated containers refer to those containing a specified cubic measure—for example, a bushel or 12 quarts. Now, most of your other containers like bags and boxes, and so forth, pretty much, I think, go on the basis of weight rather than of measure and that's the best distinction I can find between the regulated and the nonregulated.

Mr. STAEBLER. Now isn't there a problem? Don't I hear of a problem of packaging involving these odd dimensions?

Isn't there some problem arising right now in the packaging field, precisely on this question?

Mr. HEDLUND. I have heard of that particular problem that is the subject of a hearing of a different committee, but I think that most of what I have heard or read, that is in the manufactured foods field.

I have not heard any particular references to that in the fresh fruit and vegetable field. I don't know that you can say that so many of the packages are deceptive. I'm one of those who believes that if the container is well marked with the contents, then the buyer, at least, has a way of knowing what's in there.

Mr. STAEBLER. The question, as I recollect, arises because some of the packages become an exercise in mathematics. You are confronted in the store with an article at 49 cents that has 14¼ ounces and another article for 59 cents that has 16⅞ ounces and—which is the better buy.

Mr. HEDLUND. I have gone through that same mathematics, and sometimes I find myself needing a slide rule to find out what the price per ounce is.

Mr. STAEBLER. Maybe one of the arguments for the control of these containers as distinguished from the alternative that you mention here, is that these are at least multiples of a common fraction, that they are frequently used in roadside markets where people don't have a chance to exercise the maximum kind of control, and they are used in a business that has less evident—on which there is less opportunity to check up, that in other fields where there are other containers.

Would that be a justification for retaining—

Mr. HEDLUND. I think you have a good point there.

Mr. FULTON of Pennsylvania. Mr. Chairman.

The CHAIRMAN. Unfortunately, the question has been raised and you have extended over 5 minutes.

Mr. FULTON of Pennsylvania. It hasn't been raised.

The CHAIRMAN. You had 10 minutes to agree.

Mr. FULTON of Pennsylvania. I just want when it comes my turn—the same. I have some questions, too.

The CHAIRMAN. Mr. Rumsfeld.

Mr. RUMSFELD. I would just like to say, on your statement, page 3—

consideration might well be given to removing all restrictions of the Standard Container Act of 1928 by repeal of the act—

concerns me. It seems to me logically from what you said and it was a very fine statement, this committee should either on the one hand, give consideration to repealing the act of 1928 or if these restrictions are in the public interest then we should give consideration to including those containers which are covering 90 percent of the business.

If it's right, it's right for more than simply the 10 percent and from your statement I would conclude possibly the best course we could take would be to repeal the 1928 act.

What would your reaction be as a representative of the Department of Agriculture, to that?

Mr. HEDLUND. Well, until the last thing you said, I thought you got the message very well.

We are not proposing repeal. We merely wanted you gentlemen to know of this aspect and consider it.

Mr. RUMSFELD. I can read from your statement. My question to you, as a representative of the Department of Agriculture, I am asking you the question—is what I say logical or not logical, that either we should repeal it or we should include the other 90 percent of the packages?

Mr. HEDLUND. Well, I think that's a good point of view. I am a little disturbed trying to explain why we have this segment over here under rigid control and this one over here, not. Now, I'm not one of those who thinks everything should be regulated either, and as the gentleman said earlier, I'd go along if the States would do this, I'd be very happy. But the simple fact is, they haven't and I don't think they are going to. But while I am not urging repeal, I think the committee should give attention to that particular question.

Mr. RUMSFELD. Certainly, I would be reluctant with respect to this particular piece of legislation to provide some additional sizes and in the process avoid this opportunity of really looking at the question.

I think this would be an appropriate thing for our committee.

The CHAIRMAN. Mr. Fulton?

Mr. FULTON of Pennsylvania. I want to ask some questions on the letter of September 25, 1963, of the General Counsel of the Department of Commerce. I ask it be put in the record at this point.

The CHAIRMAN. Without objection.

(The letter of September 25, 1963 is as follows:)

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
Washington, D.C., September 25, 1963.

HON. GEORGE P. MILLER,  
Chairman, Committee on Science and Astronautics,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning H.R. 5792, H.R. 7116, H.R. 7335, and H.R. 7735, and H.R. 7709, identical bills to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

The act of May 21, 1928, established standard sizes for certain fruit and vegetable containers made of wood, including hampers, round stave baskets, and splint baskets. It is our understanding that the original purpose of the act was to limit the number of sizes of such containers to those actually necessary and, by selecting standard sizes with sufficient differences in volume, to make these standard sizes self-identifying; that is, a  $\frac{3}{4}$ -bushel basket can readily be distinguished from a 1-bushel basket by observation.



The bills would amend the act of May 21, 1928, by adding three new sizes to that portion of the act dealing with hampers and round stave baskets and one size to that section dealing with splint baskets. Addition of these sizes one-sixteenth, seven-eighth, and  $1\frac{1}{2}$  bushels and 14 quarts) would impair the self-identifying feature of the act. For example, the average person cannot readily distinguish by observation the difference between a  $\frac{7}{8}$ -bushel basket and a 1-bushel basket, or between 14- and 16-quart splint baskets. For this reason the proposed amendment seems to run counter to one of the basic principles of standardized packaging. Loss of the self-identifying feature may no longer be of particular importance, however, since we understand that at present the purchasers of bulk produce in containers covered by the act of 1928 are not consuming households so often as they are retailers and wholesalers who in turn repackaging for sale to the public.

Since 1928 many new containers have come into prominence in the packaging of fruits and vegetables. Fiberboard cartons and wirebound crates, for example, are not subject to the standards which were established for wooden baskets and are produced in numerous sizes and shapes. These are adaptable to the particular packing, shipping, and marketing practices associated with a wide variety of fruits and vegetables. Proponents of the bills contend that the additional sizes which it would authorize would enable the wood basket industry to compete more favorably with producers of nonstandardized containers. While we are uncertain whether the limitation of standard sizes is a significant factor in the unfavorable competitive position of the wood basket producers, it does appear that there is a basic inequity which could affect the competitive position of the producers of the standardized containers.

In view of the problems mentioned above, we would have no objection to the enactment of legislation for this purpose, provided the act of May 21, 1928, is further amended to require that each container authorized under the act, as well as similarly used containers which are presently unregulated by that act, be conspicuously labeled so that their size may be readily determined when filled with produce. However, we further feel that the basic reason for imposing legal limits of sizes and shapes for round stave baskets and hampers also applies to other kinds of containers for the same bulk packaging of fresh fruits and vegetables which presently are unregulated. We, therefore, suggest that attention might well be given by the Congress to the broader question as to whether all fruit and vegetable containers should be accorded uniform treatment, as to size standards.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

Mr. FULTON of Pennsylvania. From my point of view as an attorney of some experience, the act of May 21, 1928, as amended (15 U.S.C. 257-257i), is unconstitutional. Has the act of May 21, 1928, as amended, ever been before an appellate court in this country on the constitutional question involved?

Mr. HEDLUND. I believe not.

Mr. FULTON of Pennsylvania. Next, has the Attorney General ruled on the proposal within this bill to add extra classes which are still limitations?

Mr. HEDLUND. I have no knowledge that he has or that he has not. I just don't know.

Mr. FULTON of Pennsylvania. All right, I ask the Chairman to have the Attorney General of the United States rule on this particular question I am bringing up, because in my opinion under the coinage, weights, and measures section of the Constitution there can be established various measures, sizes, quantities, which become standard, but unless the legislation is placed under the commerce clause there can be no limits on manufacture or shipment in disregard of those sizes.

And then, the limitation can only be on interstate commerce.



Now, my point had been right straight through, that I believe that this is an unnecessary statute because 90 percent of the commerce—is not carried in containers other than those covered by this 8 to 10 percent we are now speaking of.

Is that not correct?

Mr. HEDLUND. Yes, sir.

Mr. FULTON of Pennsylvania. Now then, the amendment proposed here and referred to in the letter of September 25, 1963, of the General Counsel of the Department of Commerce, Mr. Robert E. Giles states—is commented on in the second paragraph.

For this reason the proposed amendment seems to run counter to one of the basic principles of standardized packaging.

Have you read that letter, and would you comment on that, because the Department of Commerce does not approve this legislation. The Department, simply through its General Counsel says, we would have no objection to the enactment of the legislation with a proviso.

Mr. HEDLUND. I have not seen the letter.

Mr. FULTON of Pennsylvania. I wish you could submit that as a statement later. I won't press it at this time.

The Department of Commerce Counsel said on page 2 of his letter:

However, we further feel that the basic reason for imposing legal limits of sizes and shapes for round stave baskets and hampers also applies to other kinds of containers for the same bulk packaging of fresh fruits and vegetables which presently are unregulated.

Therefore, the same principles which we apply to this bill should be applied to the 90 percent of the unregulated commodities, should they not?

Mr. HEDLUND. Well, as I told the gentleman earlier, I think there is a good reason for treating everybody alike.

Mr. FULTON of Pennsylvania. I am asking your opinion at this point. Should it not be extended to the others?

I would like you to say "yes" or "no" on behalf of the Department of Agriculture on that particular point of policy.

Mr. HEDLUND. Well, I don't think I would like to say "yes" or "no," Congressman, if I can satisfy you otherwise.

Mr. FULTON of Pennsylvania. Can you get a departmental ruling on that, if you will?

(The information requested can be found in the committee files.)

Now, on page 3 of your statement you say:

Since the proponents of H.R. 5792 state that the principal reason for requesting authority for manufacture of additional sizes of hampers, round stave baskets, and splint baskets is to meet the competition from other types of containers, consideration might well be given to removing all restrictions of the Standard Container Act of 1928 by repeal of the act.

You say "consideration might be given" but what is the Department of Agriculture's policy?

Should we repeal it—and my answer to that is "yes"—what is the Department's policy?

Mr. HEDLUND. I think the Department's position is we ought to treat everybody alike.

Mr. FULTON of Pennsylvania. Can you have the Department give us a comment on that for the record later?

There is no doubt there cannot under the present statutes be deceptive packaging. That is already taken care of by other statutes, is it not?

If you will put a reference to it—have your counsel get it and put it in here, I would like to have that.

The other question should be on the question of deceptive packaging, requiring every package, not just this type of package, have the designation on it of what it contains—some unit of measurement which is plain to the purchaser whether wholesale, factory, or consumer.

Mr. HEDLUND. Yes, sir, I am in favor of correct and legible labeling.

Mr. FULTON of Pennsylvania. Why shouldn't this be turned into a statute which requires over and above deceptive packaging, because we have a law on that already—that Mr. Fuqua's amendment be the act, that it states plainly on its surface when the package is manufactured or prepared for State or interstate or foreign commerce or intrastate commerce; that there be a specific designation in common units that the average person can make a decision as to price, based on size or volume?

What do you think of that?

Mr. HEDLUND. That sounds all right with me, yes, sir.

Mr. FULTON of Pennsylvania. Would you recommend it as the Department policy?

Mr. HEDLUND. Well, I certainly would recommend that packages be labeled as to their content so that the purchaser or consumer can tell how much is in it.

Mr. FULTON of Pennsylvania. Well, I think that's a fine approach and I would compliment you on it.

Now, in questioning as to the industry acceptance of these particular proposals, just what industry inquiry has been made by the Department of Agriculture?

I, of course, represent a district in and near the city of Pittsburgh, so we are interested in the H. J. Heinz Co., of Pittsburgh. I guess every Congressman legislatively will think of his own people, too, so I would ask you have you consulted with the H. J. Heinz Co., one of the largest processors and manufacturers of food products in the country?

Mr. HEDLUND. No, sir, we have not.

Mr. FULTON of Pennsylvania. I would suggest, before this committee acts, I would agree with Mr. Mosher if there are doubts within the industry, that we should hear them and, secondly, if there are parts of industry that have not been consulted; as Mr. Mosher says, that they then be advised of this proposed legislation.

My other point is this: What associations in the manufacturer processors, shippers, large store chains, as well as small individual stores, have you consulted as to whether this legislation is good for the industry or, as I brought up earlier, whether it makes another clog on interstate commerce.

Mr. HEDLUND. The only association we have heard from is the American Veneer Package Association which I think is represented here today.

Mr. FULTON of Pennsylvania. Are they manufacturers of boxes and containers or are they users?

Mr. HEDLUND. I believe they are manufacturers of the containers regulated by this act of 1928.

Mr. FULTON of Pennsylvania. But there is no user that you know of nor public purveyor that has been consulted as to how this will affect their consumer interest nor their purveyor interest if they are dealing with the general public.

Mr. HEDLUND. That is correct.

Mr. FULTON of Pennsylvania. Don't you think that should be done?

Mr. HEDLUND. I think it would be desirable.

Mr. FULTON of Pennsylvania. Thank you. That is all.

The CHAIRMAN. I would say just for the record we have favorable letters from manufacturers in the States of Indiana, Kansas, Arkansas, North Carolina, and Florida.

Now, Mr. Mosher?

Mr. MOSHER. Bearing on my earlier comments; the third paragraph on page 2 of Mr. Hedlund's testimony interested me very much. It supplements very much what Mr. Fulton is saying.

The Department has received no information from fruit and vegetable growers, shippers, receivers, or other potential users of the container sizes proposed in H.R. 5792 to indicate an interest in or need for these additional containers.

Now, that's the point I was making a few minutes ago. The growers in my area—their immediate reaction was one of opposition because they think it will increase their costs, increase the complications of their job, and they are very skeptical of the need or value of this legislation.

Mr. Chairman, I would like to ask if there is to be any testimony here today from growers or shippers or receivers or whether these people have been notified and given an opportunity to appear here.

The CHAIRMAN. Well, I know they have not been notified. They are given an opportunity to appear, but none of them have written in, or asked to be heard, or this sort of thing and I don't know that the committee could undertake the dissemination of this information to apprise where it goes out and herald it forth. It is public knowledge. Their own organizations generally pick these things up and let us know.

Mr. MOSHER. The indication in my area is they were completely unaware. I think this is their own fault. I agree.

The CHAIRMAN. You wouldn't want to put the burden on us—

Mr. MOSHER. No, but you have not—there is no one to testify here, except the manufacturers. Is that right?

The CHAIRMAN. That is right, so far as we know. The manufacturers—and there is a letter that has come in quite recently from an organization opposing the bill, and I was going to put the letter in for the record, at the proper time.

(The information mentioned can be found in the committee files.)

Mr. MOSHER. I certainly will want to send the testimony out to the people in my area and if they oppose, they may want to come in and represent themselves before the committee.

Mr. FULTON of Pennsylvania. Would you yield?

Mr. MOSHER. I would like to associate myself also with Mr. Rumsfeld's comments. It certainly seems to me if 90 percent of these containers are not regulated in any way by the Federal Government, but this small group is, this immediately raises a serious question before the committee as to whether or not there should be no regulation or further regulation.



The CHAIRMAN. Or further regulation.

Mr. FULTON of Pennsylvania. Would you yield, Mr. Mosher?

The point that you make is well taken, and my belief is that it is the Department of Agriculture which should find out the conditions in the industry rather than this committee or any particular part of the industry.

We should have the survey by the Department and I have already asked for it.

The other point is you have commented on page 4 of the statement of the present witness:

No samples or suggested dimension specifications for the new sizes of containers proposed in H.R. 5792 have been submitted to the Department and, for this reason, we are not in a position to determine whether they would be deceptive in appearance when compared with the containers now permitted under this act.

Consequently there has not been made, the proper research by the Department of Agriculture.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PATTEN. Mr. Chairman, for a noncontroversial subject we have gone far afield here. No. 1. For the desire of protecting Congress there is another committee of Congress that has been working 6 months with loads of witnesses about packaging. This is an enormous subject. I don't think that's our concern this morning. There has been a great deal of work this year in this Congress on this whole question protecting the public. I don't think that is our job.

No. 2. You are dealing with wholesalers for the most part. You don't have to worry about the fellow using the fiberboard or the like. I guarantee, any wholesaler buying truckload or carload, whether Heinz' soup or Campbell's soup, they will check their quantity. We have no problem. We are creating a problem. The only thing for us to look at here is that we are dealing with people working in this good old wood. I like these containers and you see they lost 90 percent of the business and you want to help them, in the competition.

As to protecting the public and how they buy, that is an enormous subject. We don't have to take it up here today just to help these people make these wooden packages. I guarantee the wholesalers get these things, getting them in cartons and boxes—know how to get true weight. If you ever worked around the wholesale house you'd know they go by weight, but you can take a bushel of potatoes and ride here from Baltimore you will have a half basketful sometimes. The problem and need for regulation is in these containers. You don't care how large the bag of potatoes is. You put it on the scale and you know whether it is 98 pounds or a hundred pounds. We weigh the potatoes. If you weigh them, that is one thing. If you buy a bushel, you know how much a bushel will be—depends on how long you travel or how much it is shaken up. You are not going to repeal the act, because this was made as a protection against fraud and double bottoms and deceptive packaging, and so forth. So you are going to keep the act of 1928.

It is a very simple thing these people have a tough time with cheaper products, only want to be put in a better competitive position.

Incidentally, we have a couple of plants in New Jersey—two of my very good friends make these baskets.

The CHAIRMAN. If you would yield to me——

Mr. ROUDEBUSH. Would you yield?

The CHAIRMAN. Just a minute. He is yielding to me.

I should be against this legislation because I have some of the biggest paperboard baskets and containers for agricultural things in my district; but I think I am not going to be that parochial and take care of my district.

The gentleman has the floor. Just about to lose it—go ahead.

Mr. ROUDEBUSH. I'll make this very quick, Mr. Chairman.

I'd just like to ask the gentleman, this type industry has lost 90 percent of the business. Ten percent of this—of the vegetables and other produce—shipped in unregulated containers indicates the need for additional size.

Mr. PATTEN. That is right, we won't hurt these people. We won't have to get into other questions here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Fuqua.

Mr. FUQUA. Mr. Chairman, I'd like to say, regarding the Department not having information from people requesting these additional sizes, I don't think it would be proper for these people requesting these sizes to go to the Department of Agriculture. These people, the manufacturers, of these boxes, are interested in doing this because the people they sell to are interested and have inquired of them, "Can't they do that?"

They are hamstrung by legislation passed by this Congress and I think what this simple bill does is take some of the stranglehold out and let them have sizes as Mr. Roudebush pointed out and Mr. Patten, these can be competitive with some of these crates, also in any district and not in the boxes.

Mr. FULTON of Pennsylvania. Why don't you leave them open?

Mr. GURNEY. I think Mr. Fuqua makes an excellent point, the same point I was going to make in answer to the question, Is there a need for this?

Seems to me the answer is most simple, these people wouldn't be here for additional sizes unless some users wanted to add sizes and they had to meet the need. That's the reason they are here.

The other point is this, and we ought not to lose sight of this. This point was made by Congressman Rumsfeld and also the witness here from the Agriculture Department, either you ought to have no regulation or all regulation, is a good point.

I would subscribe to that basically, but let's see what we are faced with when we face that.

I don't think this committee is going to take off the regulations.

Then that means there would be a question of regulating all the industries, including the paperboard people.

Obviously, this committee isn't going to do that without extensive hearings which would require a great deal of time. Seems to me it would be a great hardship on these people that represent a small segment of the industry, to have to wait for their really simple and slight amendment here on complete hearings to revolutionize the industry and I don't think that would be fair.

The CHAIRMAN. Would the gentleman yield, so we can keep this thing in perspective.

Mr. GURNEY. Yes.

The CHAIRMAN. We now have 16 types of containers under the law. We propose adding four more, so we're going to add a  $\frac{1}{16}$ -bushel hamper. We already have  $\frac{1}{8}$ -bushel hampers.



Then we are going between the three-quarter bushel and one-quarter bushel. We are going to add  $\frac{3}{8}$ -bushel hampers.

Between the 1-bushel and  $1\frac{1}{4}$ -bushel basket we are going to add  $1\frac{1}{2}$  and between the 12-quart splint basket and 16-quart splint basket, we are going to add the 14-quart splint basket.

You are not taking anything away. You are merely broadening the spectrum—amending the law to allow these people to meet competition with other groups.

Now, when I was a young man, we grew a great deal of strawberries in our district and they always came in wooden baskets. Today in California you see practically no wooden baskets. They are not paper baskets. They are made out of——

Mr. HEDLUND. Plastic.

The CHAIRMAN. They are plastic baskets, but there is no difference in the size; and all we are doing here is that we are not handling all of the industry and we are not trying this case to see whether it is constitutional. We are just adding four sizes in a field pretty well covered, to make it complete on the basis  $\frac{1}{8}$ -bushel sizes and 2-quart sizes fill in the gaps.

Mr. GURNEY. I certainly agree.

Mr. FULTON of Pennsylvania. Will you yield, Mr. Gurney?

Mr. GURNEY. Yes.

Mr. FULTON of Pennsylvania. The problem comes up whether you are really for free enterprise or whether you are for limited enterprise. I feel I am for free enterprise, so I want restrictions on it.

The second point is, if you free them by giving them four more sizes by statutory authority, why not better free them entirely and repeal the act of 1928 and make them exactly equally competitive with the other 90 percent of the industry that has no regulation whatsoever on containers.

Mr. GURNEY. This, I don't argue and I think your point is well made.

Mr. PATTEN. No.

Mr. GURNEY. I simply say we obviously can't do that here. Obviously, have to have full and complete hearings and bring in the whole industry to do this. In the meantime if we don't go ahead with the amendment we have made here, what are we doing? We are killing your idea of free enterprise because we are not allowing these people to compete more favorably with the other people unregulated.

By passing this amendment, we are doing free enterprise a favor.

The CHAIRMAN. People who make fiberboard make  $\frac{3}{8}$ -bushel fiberboard boxes but these people can't make the  $\frac{3}{8}$ -bushel box.

Mr. Patten?

Mr. PATTEN. You are not going to repeal the act of 1928. That is to protect the public.

The CHAIRMAN. Let's get on.

Now, Dr. Weaver?

Dr. WEAVER. Can you tell us, is the Agriculture Department moving in the metric system of weights and measures?

The CHAIRMAN. Not yet.

Mr. HEDLUND. I think we are discussing it like a lot of other people are. I think it probably is some little distance off yet.

Dr. WEAVER. I see. In other words, you don't see in the near future any transferring from one system of weights and measures to the metric system.

The CHAIRMAN. Doctor, may I answer that for you?

Dr. WEAVER. Yes, sir.

The CHAIRMAN. We have a bill before us that is studying the application on the metric system and they couldn't move to the metric system today until legislation is provided. That has to be the chicken. Now, you are getting back to the chicken and the egg. I don't like to argue with the man who knows biology. One of them has to come first anyway.

Dr. WEAVER. I was thinking, Mr. Chairman, if we are going in that direction, and apparently there is an international movement that way—should these be labeled also in the metric system as well?

The CHAIRMAN. I know in the canned goods industry, most canners, not all of them—there are little ones who are not in the State—are in foreign commerce, may not label their cans—but you take such outfits as California Packers Corp. which is one of the largest, you'll find so many ounces and so many centimeters on every can. They have had to do that if they want to move in foreign commerce, it's got to be done and sooner or later I think we have to come to this.

Dr. WEAVER. My point is, sir, if we are moving in this direction, slowly, as maybe we have to do these things gradually, wouldn't it be better to label it both ways as we go on—the baskets as well as any new laws or acts we pass, of the alternate system of labeling?

The CHAIRMAN. May I say I think we are crossing a bridge? If, I presume we ever adopt the metric system, we will also provide in law the standards that are now set up—will be either interpreted in the metric system or we'll change the whole thing to the metric system at that time.

I think it's a little premature, frankly, to bring that in now because this study is going to take some time and it's estimated it will take nearly a generation to get accepted.

Dr. WEAVER. Thank you.

The CHAIRMAN. Any other questions?

Mr. STAEBLER. Mr. Chairman, would it be in order to ask whether those of us who have this industry—

The CHAIRMAN. Will you just yield—Mr. Fulton, before you leave, you asked me to obtain an opinion from the Attorney General. The Attorney General, I am informed, is only allowed to give opinions to administrative or executive branches of the Government. We have to look to the Comptroller General.

Mr. FULTON of Pennsylvania. That is a good point.

The CHAIRMAN. We will have to contact the Comptroller.

Mr. STAEBLER. Would it be in order for me to make a suggestion? Those of us who have not followed Mr. Mosher's good example in consulting the industry in his area, might have say, 2 weeks in which to do this.

The CHAIRMAN. This is one of the things I have in mind. What I would like to do now is get on with the other witnesses, to get them before you so you will have further information.

Are there any other direct questions of Mr. Hedlund?

(No response.)

The CHAIRMAN. Are we going to hear from Mr. Voges?

Would you mind then, Dr. Huntoon, if Mr. Voges goes on next?

Mr. VOGES. May I have just a minute?

**STATEMENT OF ALVIN A. VOGES, SECRETARY-MANAGER, AMERICAN VENEER PACKAGE ASSOCIATION, INC., ACCOMPANIED BY MR. CALLOWAY OF THE ATLAS GENERAL INDUSTRIES, INC.**

Mr. VOGES. I do want to thank you and the members for having this hearing and allowing us to appear. With your permission I would like Mr. Calloway to sit with me. He is a manufacturer. Mr. Calloway is from Maryland.

The CHAIRMAN. We welcome you, Mr. Calloway.

Mr. Calloway is with the Atlas General Industries, Inc., of Hebron, Md., and Suffolk, Va., and is engaged in this business. Will you both be seated, gentlemen.

Now, have you a statement, Mr. Voges?

Mr. VOGES. My name is Alvin A. Voges, secretary-manager of American Veneer Package Association, an association of wooden fruit and vegetable container manufacturers, round baskets, hampers, and other kind of baskets in this field. The statement has been made and well made that we are a minority interest in the field of fruit and vegetable packaging. At the time these acts were instituted, we were the very major portion of the field.

At that time, and even since then, and this is by hearsay—it's my understanding there has been repeated attempts to standardize sizes in and among the other competitive containers of wood boxes, of paperboard boxes and of bags, but this has never quite come to a conclusion and actually, if you were in the business of growing agricultural products and packaging them, you could understand that there would be innumerable difficulties in standardizing these rectangular or square containers that are other than ours. This, by reason of a peach grown in one area, isn't necessarily the same weight as a peach grown in another area. A 3-inch peach is a totally different thing than a 1¾-inch peach, so they do need to vary their sizes. In fact, they may vary their sizes in almost minimal amount, maybe an eighth of an inch or a quarter of an inch, they can and do make their containers in sizes according to their whims.

In the field of apple packaging, for example, at the present time, I believe there are some 70 different containers that are used in this packaging and we are—a few of these 70, the rest being paperboard or woodbox-type containers who need to change their dimensions to obtain a given amount of fruit in the containers themselves if for no other reason than a need to accommodate to the varying sizes of the fruit.

A while back I believe, we provided all you gentlemen with a background information sheet which you may have before you, or may not, at least the clerk was given copies to be given out today.

This, largely, is our testimony.

(The background information is as follows:)



AMERICAN VENEER PACKAGE ASSOCIATION, INC., ORLANDO, FLA.

Senate: S. 1950 (Mr. Holland). House: H.R. 5792 (Mr. Matthews), H.R. 7116 (Mr. Fuqua) H.R. 7335 (Mr. Gurney) H.R. 7709 (Mr. Roudebush), H.R. 7735 (Mr. Patten)

A BILL To amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers

#### BACKGROUND INFORMATION

##### *Industry*

The industry of wood round stave basket and hamper manufacture and splint basket manufacture produces containers which almost exclusively are used for the bulk packing of fresh fruits and vegetables at shipping point and occasionally at wholesale level. Few of these containers reach the consuming households.

##### *Standard Container Act of 1928*

The act and its attendant regulations limits the sizes and shapes of round stave baskets and hampers which the industry may manufacture. The industry is permitted to manufacture 10 sizes of these baskets and hampers in  $\frac{1}{8}$ -bushel gradations beginning with one-eighth bushel to and inclusive of  $1\frac{1}{4}$  bushel but not including  $\frac{7}{8}$  or  $1\frac{1}{8}$  bushel; it is also permitted to make  $1\frac{1}{2}$ - and 2-bushel sizes.

In the type basket known as splint the industry is permitted to make 4, 8, 12, 16, 24, and 32 quart.

##### *History*

Prior to and since 1928 considerable thought and effort has been given to standardizing all type containers for fruits and vegetables.

Opposition to standardization of boxes, crates, and cartons has effectively prevented the passage of legislation governing manufacture of these containers in a manner similar in intent and purpose to the Standard Container Act of 1928.

The act of 1928 has effectively achieved its purpose of reducing the number of sizes and the possible deceptive appearance of the type of baskets and hampers included in the act.

Manufacturers of nailed wood boxes and crates, wirebound boxes and crates and paper (fiberboard) cartons are and have been free to make and market any sizes or shape package without regard to standardization.

#### ROUND STAVE BASKETS AND HAMPERS

##### *Competition*

Principal competition to round stave baskets and hampers are nailed wood boxes and crates, wirebound boxes and crates and paper (fiberboard) cartons.

##### *Marketing practices*

In the era of 1928 and until recent years fruits and vegetables were largely marketed in terms of bushels and fractions thereof and/or in weights that corresponded to such measure. Today, with modern marketing techniques and equipment many changes in marketing practices have occurred and these practices dictate the sizes of units that best meet the convenience of such changes. Many fruits and vegetables now move to market in package sizes that do not have any indicated relationship to the bushel measure.

##### *Package size changes*

Each year, in recent years, the competitors to round stave baskets and hampers introduce new package shapes and sizes in profuse number. As example, we at this time have before us proposals by competitive container manufacturers for a total of 18 new packages for fruits and vegetables, all of them proposed between January 1, 1963, and April 12, 1963.

None of these proposed new packages are wood baskets and hampers. In fact the round stave basket and hamper industry has not proposed a new package since 1954.

##### *Container tariffs, railroad*

The railroads jointly through the National Container Committee publish a synopsis of containers approved for rail loading of fruits and vegetables. There are published upwards of 70 containers for apples, in many of these the dimensions differ only in fractions of an inch. To meet this competition the round stave basket and hamper industry has listed but four sizes; namely  $\frac{1}{2}$ -bushel,  $\frac{3}{8}$ -bushel,  $\frac{3}{4}$ -bushel, and 1-bushel round stave baskets.

*The 1962 peach shipment tests*

In 1962 the USDA conducted tests of peach shipments in which three of the four test packages were manufactured by competitors of the round stave basket and hamper industry. These three packages had nominal cubic content capacity of: fiberboard carton, 1,981 cubic inches; fiberboard carton, 2,000 cubic inches; wirebound fiberboard and veneer container, 1,987 cubic inches.

It is to be noted that these capacities are in a range less than a bushel (2,150.42 cubic inches) and more than three-fourths bushel (1,612.8 cubic inches). For packing peaches, it is indicated that 50 cubic inches are needed for each pound of peaches. Existing marketing practices call for a package with 38 to 38½ pounds of peaches. Theoretically about 1,900 cubic inches are needed for such weight. The cubic capacity of ¾-bushel would be 1,881.62 cubic inches and, if the round stave basket and hamper industry were permitted to make this size package it could adequately meet this competition.

*Round stave basket and hamper sizes and use*

For commercial bulk shipment of fruits and vegetables, the sizes of round stave baskets and hampers used are ½-bushel, ¾-bushel, ¾-bushel, and 1-bushel. Sizes smaller than ½-bushel are generally roadside stand or local use items. Sizes 1¼-bushel and larger are mostly used as picking (harvest) baskets and do not find their way into the markets.

As a practical application, the industry has four sizes of packages with which to meet the great number of package sizes of its competition for intrastate and interstate shipments of fruits and vegetables.

*Competitive package sizes*

Herewith is a partial list of competitive packages that are of sizes the round stave basket and hamper industry cannot presently approximate but with which the industry could be competitive if permitted to market ¾- and 1½-bushel containers.

## CUBIC CAPACITY OF SEVEN-EIGHTH BUSHEL IS 1,881.62 CUBIC INCHES

Category	Package use	Cubic inches
Nail wood.....	Celery hearts.....	1,760
Wirebound.....	(1).....	1,827
Do.....	(1).....	1,842
Do.....	Pineapples.....	1,917
Do.....	(1).....	1,826
Do.....	Citrus.....	1,820
Do.....	Corn, cucumbers, eggplant, escarole, peppers, squash, tomatoes.	1,890
Do.....	Tomatoes.....	1,940
Do.....	Peaches.....	1,987
F/B carton.....	Oranges and grapefruit.....	1,823
Do.....	Tomatoes.....	<sup>2</sup> 1,821
Do.....	do.....	1,935
Do.....	do.....	1,860
Do.....	do.....	1,778
Do.....	do.....	1,970
Do.....	Citrus.....	1,739
Do.....	Tomatoes.....	<sup>3</sup> 1,764
Do.....	Peaches.....	1,981
Do.....	do.....	2,000

## CUBIC CAPACITY OF ONE AND ONE-EIGHTH BUSHEL IS 2,419.22 CUBIC INCHES

Nail wood.....	Apples.....	2,431
Wirebound.....	Corn.....	2,350
Do.....	(1).....	2,386
Do.....	(1).....	2,448
F/B carton.....	Apples.....	2,319
Do.....	do.....	2,431
Do.....	Tomatoes.....	<sup>4</sup> 2,325
Do.....	do.....	2,522

<sup>1</sup> Authorized in railroad container tariffs for the packing of many fruits and vegetables.

<sup>2</sup> May be made any size from 1,821 cubic inches to 1,935 cubic inches.

<sup>3</sup> May be made any size from 1,764 cubic inches to 2,130 cubic inches.

<sup>4</sup> May be made any size from 2,116 cubic inches to 2,522 cubic inches.

## SPLINT BASKET

In general, the competitive position of splint baskets is typified by the prior parts of this letter except that sizes smaller than  $\frac{1}{2}$  bushel are used in commercial bulk shipments.

For the packing of Bibb and/or leaf lettuce 12-quart splint baskets are used. But when the lettuce heads are of large size, it is difficult or impossible to put the desired poundage into a 12-quart splint basket and for this particular need and for other needs, it is desirable that a 14-quart basket be authorized for manufacture and marketing.

## SUMMATION

The request made of Congress to amend the Standard Container Act of 1928 is for the inclusion of sizes not now authorized, namely:

$\frac{1}{16}$ -bushel round stave basket or hamper,  $\frac{7}{8}$ -bushel round stave basket or hamper,  $1\frac{1}{8}$ -bushel round stave basket or hamper, 14-quart splint basket.

The  $\frac{1}{16}$ -bushel size of round stave basket or hamper is wanted, not as a package for bulk shipment of fruits and vegetables, but for retail use particularly at roadside stands and local retail markets. Its cost of manufacture and resulting comparatively high selling price would not permit its general commercial use nor would its size and shape permit it being shipped by common carrier without it being packed into a master container.

The  $\frac{7}{8}$ - and  $1\frac{1}{8}$ -bushel size of round stave basket or hamper are wanted for the purpose of meeting existing marketing demands and to meet competition.

The 14-quart splint basket is wanted for the purpose of supplying the proper size to properly pack and ship produce that, at times, cannot adequately be handled in 12-quart-size baskets.

It is axiomatic that to successfully compete in present-day markets an industry must be in position to furnish customers their needs, to meet marketing demands, and to be able to meet competitors' offerings.

The basket and hamper industry today, by reason of limitations imposed on it by law, can only manufacture a limited number of package sizes and shapes. The basket and hamper industry's principal competitors are not so governed, they can and do make and market all sizes and shapes of packages without restraint.

Between 1928 and 1963, marketing conditions and practices have materially changed. The request made of Congress is that the 1928 act be amended to include sizes of packages the basket and hamper industry now finds in demand under present-day marketing conditions.

Mr. VOGES. Again, in the field of peach packing, it's common usage now for buyers of peaches to expect 38 pounds of peaches as a quantity for a package to deliver peaches to them and this particular weight has no real relationship with anything corresponding with fractions of a bushel.

Actually, it would probably calculate, their present containers are manufactured for a cubic content of about 88 or 90 percent of a bushel, but these, again, as has been remarked, are not mandatory. In fact, we are the only ones who manufacture only sizes designated by Federal law.

The provision that was talked of, of marking baskets by quantity is largely followed by our people today.

I would suspect that 85 or 90 percent of the baskets and hampers and other baskets that move via this act, are marked; marked with a capacity of a bushel or fraction thereof.

Mr. FUQUA. Mr. Voges.

Mr. VOGES. Yes.

Mr. FUQUA. Then you would have no objection to this amendment I plan to propose to make it mandatory so it will remove any doubt among the consuming public or buyers of this as to exactly what the sizes are and remove the doubt that you are trying to confuse the public with these additional sizes.



Mr. VOGES. We are heartily in accord with it. I say this simply because it has been common practice among our manufacturers to do this sort of thing for our own protection.

If you will permit me, I will read the statement we did send out, and this, perhaps, is the easiest way to find the position to talk about.

The industry—

The CHAIRMAN. Mr. Voges, in the interest of time, because I'd like to get it—couldn't you summarize this? You have pretty much and we'll put it in the record and every member of the committee has it and they now have it. They can study it themselves along with the other thing and save a little time.

Mr. VOGES. Mighty fine.

At page 3 there is listed a number of packages, the cubic content of which is not necessarily in relationship to a bushel or portions of a bushel. Meeting this competition, our container doesn't come up to or is less than the cubic content measurements that are shown. A cubic content container of 1,881.62 cubic inches is seven-eighths of a bushel. At the present time, our gradation sizes don't permit us to manufacture in this area, and we are 300 cubic inches away from being able to meet competition.

It's true, the whole revolution of food distribution has rapidly changed since 1928, and we have very seriously avoided making an appeal until, at this time, when we are simply in a position of either coming to these sizes, meeting this competition, or passing along and out of business.

As an example of my conversation I'd like to read into the record five different types of containers that were used in the 1963 peach deal. We call it deal in agricultural processes.

One of them was a wirebound crate with 1,987 cubic inches. Another was a three-piece paperboard container, 2,063 inches.

Another was a two-piece telescope paperboard container, 1,921 cubic inches.

Another was a partly telescoped container made of paperboard, 1,996 cubic inches and another was a partly telescoped paperboard container with 2,118 cubic inches.

Well, since our three-quarter bushel basket is 1,600-odd cubic inches—1,640, as I remember it—we are a great distance from these containers at that cubic content and since our next size is 2,150 cubic inches, we are 150 inches in the opposite direction.

So, you see, we can't meet this competition which develops to 38 pounds of peaches for the market and in accommodation with market practices.

We haven't consulted with growers or shippers directly to interest them or to hear their reactions to it, but as hearsay evidence it can be said that in Ohio and I believe—wasn't it Mr. Fulton, isn't he from Ohio—it's the same answer.

The CHAIRMAN. Mr. Mosher.

Mr. VOGES. Lettuce is packed in a splint basket in Ohio and in Indiana. During the course of the season at the early part, the 12-quart container is quite sufficient for the purpose. Later in the season as the heads get larger, the 12-quart container won't accept the proper number of heads and so for this purpose we need a 14-quart container.

Mr. Fulton remarked about the H. J. Heinz Co., and their reaction at Pittsburgh. The H. J. Heinz Co. uses a considerable number of

our containers but they use them from the point of growth to the point of processing and not through any retail channels. They are simply carried into the processing plant, dumped, and sent back out into the field for filling.

The CHAIRMAN. I think Mr. Fulton, Mr. Voges, was simply stating the H. J. Heinz Co. had a plant in his district he was interested in because H. J. Heinz also has a plant in my district. I haven't heard from them and I know them pretty well.

Mr. VOGES. The second question I heard asked, and I don't remember by whom, is: Where are these manufacturers located?

Largely, they are located in the Southwest, in Texas and Arkansas, in Florida, in South and North Carolina, in Virginia, New Jersey, in Michigan, in Maryland, in Tennessee, and in Indiana. For all practical purposes, nothing west of Texas. There is one manufacturer in California.

These baskets are used very extensively in interstate commerce rather than intrastate commerce. To us, this act is a beneficial one. It reduced, at its origin, the number of containers that were manufactured by our people from several hundred, down to a very few. It was a very healthy thing. We liked it. We continue to like it because we believe that it is saving us money and is a control factor. We also believe that the continuance of this Standard Container Act, at least now, appears desirable because it does establish a comparison in all States and wherever they may be shipped interstate, it does establish a comparison of buying habits.

There is no real difficulty with any of our competitors. We know of no reason why any competitor should complain and, certainly, in the field, all that the farmer wants is the ability to pack according to the market's desire. These things we are attempting to meet by this legislation and we, indeed, hope that you will see fit to carry on with us for our position is difficult.

The CHAIRMAN. Any questions?

Mr. Roudebush?

Mr. ROUDEBUSH. Mr. Voges, you do not favor, then, the repeal of the act of 1928?

Mr. VOGES. No, sir; we do not. We believe it's a healthy thing.

The CHAIRMAN. Mr. Bell?

Mr. BELL. Mr. Voges, do you anticipate in the future you may want to amend this again, maybe these sizes aren't enough and that perhaps later on you will find need for increasing, or changing them, and so on?

Mr. VOGES. Mr. Bell, you have brought up a question that gives me the opportunity to make a statement that I was not sure I was going to be able to make.

Canada, as you folks know, does import—excuse me.

Mr. FUQUA. I might have the letter you are looking for.

Mr. VOGES. Yes, you do, Mr. Fuqua.

Canada does import from our country, products of agriculture and they, too, have a container act. The 12-quart splint basket which we have in the act at the present time, has been going into Canada with tomatoes and is a well liked and well used package. Mostly these tomatoes originate in the New England or North Atlantic States territory.

I have a letter here from the Canada Department of Agriculture. With your permission I would like to read it into the record. It is addressed to me at Orlando:

I have your letter of August 20 with reference to the possibility of your 12-quart veneer basket being accepted as a package for shipping tomatoes in this country. You, apparently, quite correctly see the situation as it is and realize the 12-quart basket is not or never has been a standard container in Canada. The fact that shipments to Canada have been made in this container merely points up that until the present time enforcement of our container regulations has been something less than should have been.

As far as a third possibility raised in your letter is concerned, I am afraid that stamping a minimum net weight of 20 pounds on a package that is known to contain 23 to 25 pounds would hardly meet our requirements particularly as the tomatoes in question were in the 12-quart basket whether or not such basket was stamped with the capacity.

Insofar as a third alternative is concerned in the very near future it is expected we will be having a meeting with representatives of the industry with the committee on this whole question of containers and I will bring up the status of the 12-quart basket at that time.

This is signed by Eric V. Eardley, Director of the Department of Agriculture in Canada.

Canada's regulations call for an 11-quart basket which is used there for this purpose. The difference between the 11-quart basket and the 12-quart basket is 67.2 inches—a very small difference and you can't put 3, 4, or 5 pounds of tomatoes in 60 cubic inches.

This might mean then, Mr. Bell, that if we are to continue having this business out of Canada it would be desirable for us then to be allowed to manufacture an 11-quart basket. Otherwise we are not being realistic with the trade between the two countries and, certainly, they are a friendly country and we do like doing business with them.

The CHAIRMAN. We also like getting back some of the money that goes up there, so if we can sell them anything it's to our advantage.

Mr. VOGES. Well, Mr. Chairman, in the same vein, I have had some pretty bitter remarks made to me by Canadians, "Why don't you fellas buy more from us? You are getting too much of our money."

It works both ways.

Mr. STAEBLER. Mr. Chairman, may I ask what prevents the manufacture of 11-quart baskets now, for export purposes?

Mr. VOGES. We can export the basket to a foreign country. We can make any size basket for a foreign country, but cannot ship it into a foreign country, Canada for an example, filled with produce to meet regulations that exist in Canada and these tomatoes are grown in the New England area—New York, New Jersey.

Mr. STAEBLER. Putting it into our produce trade—that is forbidden?

Mr. VOGES. Yes, and there is—

Mr. BELL. So it is possible you may want an additional amendment?

Mr. VOGES. This is conceivable. We think we would be hurt. We lose a great volume if we are not able to send these 11-quart baskets to Canada.

Now, Mr. Calloway is a manufacturer who does manufacture 12-quart baskets and whose baskets have been used going into Canada for years with tomatoes and only now do they find difficulty through embargo. Mr. Eardley's letter is dated the last of August.



This new need came to us since H.R. 5792 was originated.

Mr. BELL. You cannot——

Mr. VOGES. Any question you want to address to Mr. Calloway, he'd certainly like to answer.

Mr. BELL. You cannot anticipate, Mr. Calloway or Mr. Voges, this situation may reoccur periodically for increased changes in sizes.

For example, Mexico or some other country you may be dealing with, importing or for other reasons. Is it possible this could be changing periodically?

Mr. CALLOWAY. It is possible; however, as a manufacturer we will certainly wait until we are forced into it, more or less, because we don't want to manufacture several different kinds. In other words, for every size you make you have to have different heads and different machinery to make it. We would certainly like to make it standard as much as we could; yet we'd like to stay in business. At this time, this particular 12-quart basket he is talking about, we have several thousand of them made and can only ship them to the United States here on out. Canada permitted it during the fall and then had restrictions on it and then gave permission to go ahead for a couple of more weeks. Before the season was over, they outlawed again and the people shipping to Canada also supply the whole United States—and Canada is a good market for tomatoes.

Mr. BELL. I take it you'd like to amend this bill?

Mr. CALLOWAY. I'd like to see that amended.

Mr. BELL. You can't see anything you'd like to amend it again to place another size?

Mr. CALLOWAY. No. We'd certainly be forced into it before we'd ask for it.

Mr. ROUDEBUSH. Mr. Chairman.

The CHAIRMAN. Mr. Fuqua was next.

Mr. ROUDEBUSH. Go ahead.

Mr. FUQUA. While he's still here, I'd like to direct a question to Mr. Hedlund. The Department of Agriculture's position would not change with an amendment to include the 11-quart basket?

Mr. HEDLUND. That is correct.

Mr. ROUDEBUSH. I am not quite clear in my own mind about this, Mr. Staebler's question that was directed there a moment ago, why these regulations would prevent you at this time from manufacturing a specialized basket for Canadian trade only.

Mr. VOGES. Fine. If we can ship the empty basket into Canada—that's all right, but when it's filled with produce it cannot move.

Mr. ROUDEBUSH. I see.

Mr. CALLOWAY. May I add one other thing there? It would be a tremendous hardship on the shipper. He might pack today's field of tomatoes. He don't know whether it is going to Canada, New York, or where. He might put them in an 11-quart basket and Canada or the United States might want them.

If he is permitted to ship it in the United States he wouldn't be in any difficulty there, you see.

The CHAIRMAN. Mr. Runsfeld?

Mr. RUMSFELD. In answer to a question by Mr. Roudebush, you said you'd prefer to see the act of 1928 continued.

Mr. CALLOWAY. Yes, sir.

Mr. RUMSFELD. You would not want it repealed. You didn't say why, and it strikes me the only reason that you could feel this way—only reason why you would resist deregulation would be to protect yourself from yourself or else put yourselves collectively, the people you represent, into a position you are competitively better off than someone else or anyone else wants to come in the business because you learned to live with regulations.

What other reason would there be for resisting the repeal of this act of 1928?

Mr. VOGES. For the welfare of the public in general, terms of bushel, quarter bushel, or what have you—is a known household word and regardless of how Mr. Miller's people back in California package nevertheless these terms do continue there. We consider that this act in itself without considering any benefit to us, is beneficial to the whole of the produce industry in maintaining standards in which to be contained.

I don't know whether that answers your question satisfactory or not.

Mr. RUMSFELD. Mr. Patten made the statement before, this didn't go into the public. This is handled by wholesalers, and you go by weight anyway.

Mr. CALLOWAY. This is correct. This does go primarily, if not wholly, to wholesalers.

Mr. RUMSFELD. Then how could this be protecting the public today?

Mr. CALLOWAY. A manufacturer of wooden boxes out in Mr. Miller's territory of California can manufacture to any cubic content capacity he wishes, but it's always brought back into relationship to a bushel. The Department of Commerce recording the shipments of any given item of produce over a period of a year reports mostly in bushels or fractions of a bushel. This is the basis for their considerations. These may not be substantial reasons, yet they are good theoretical reasons that this is a restraining influence on manufacturers at different levels.

Mr. MOSHER. Mr. Rumsfeld, do you yield?

Mr. RUMSFELD. I'd just like to make one observation before I do.

What you are saying, basically: 90 percent of the industry, not regulated at the present time, should be.

Mr. CALLOWAY. I would agree with that. Yes, sir.

The CHAIRMAN. Yes, Mr. Mosher.

Mr. MOSHER. In regard to a statement you made a while ago, I have the impression in our area a substantial part of the marketing of fruits and vegetables retail, particularly, the vast roadside stands we have, as well as other markets, is done in this kind of container and does go directly to the consumer.

Now, I suspect that is true in the Chicago area, too.

Mr. RUMSFELD. It was my understanding this type container got to the public far more frequently than Mr. Patten indicated.

Mr. MOSHER. I may be wrong.

Mr. RUMSFELD. I may be wrong. I see our time is up. I don't want to go on.

Mr. VOGES. I do say this to you in full sincerity, the type of containers here talked about do not, in general, reach the public at all. They only reach the wholesale market. I think you would find it true, these people who have containers in your roadside stands in



Indiana, plus the roadside stands elsewhere are a small minority of the whole. The great bulk is in the wholesale channels.

Mr. MOSHER. And yet that group must be considered—the public.

Mr. CALLOWAY. Twelve quart, eleven quart, or what have you. They are considered.

The CHAIRMAN. Before you leave, Mr. Roudebush—when we adjourn, we will adjourn to meet at 10 o'clock tomorrow morning and take up those other two bills and I shall accept the suggestion of Mr. Staebler and put this bill over for at least 2 weeks and maybe 3 weeks to give you a chance to contact those people and find out what it's all about.

We won't get to you today, Dr. Huntoon, but I think we will want you in connection with some other things shortly.

We will come down tomorrow and take care of those.

Mr. RUMSFELD. Could I wind this up, just with one sentence before you close.

I am not satisfied with your argument against the repeal of the act of 1928 at all. I don't think they are too sound and if there are better arguments I would be interested hearing them at some future point. Certainly, we don't have time this morning.

Mr. CALLOWAY. May I add this, from the manufacturer's standpoint, we ship 38 different sizes and types from our Suffolk plant and Hebron plant. Suppose someone in one State wants one size and someone in another State, another size. This would be a tremendous problem on us. From the manufacturer's standpoint we would rather have standard package, a bushel used in Florida would be used in Maine.

Mr. RUMSFELD. From a free enterprise competitive standpoint if some outfit can work this size package better than you can, they deserve the business.

Mr. CALLOWAY. I say, they should be regulated the same as we are. I wouldn't want the act repealed. They would be included—not the whole thing repealed.

Mr. RUMSFELD. This is the same thing we got before, and it doesn't satisfy me.

One limits competition rather than encourage competition.

Mr. PATTEN. Someone may be old enough to remember—my recollection is that the 1928 act started as a result of public clamor against fraud in these wooden baskets and everything.

Mr. RUMSFELD. This, of course, is not the argument they are making.

Mr. PATTEN. No; but that is my recollection of how the act started. I was just going to the law act and my recollection was, there was an exposé on double bottoms and a lot of false appearances and that was what prompted the Congress to act to protect the people.

Mr. RUMSFELD. Very well. I would like to yield back all of my time.

The CHAIRMAN. The committee is adjourned to meet at the call of the Chair.

(Whereupon, at 12:05 p.m., the committee was adjourned.)



# AMENDING THE STANDARD CONTAINER ACT OF 1928

TUESDAY, DECEMBER 3, 1963

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SCIENCE AND ASTRONAUTICS,  
*Washington, D.C.*

The committee met at 10 a.m., pursuant to call, in room 214-B, Longworth Building, Hon. George P. Miller (chairman), presiding.

The CHAIRMAN. Without objection, the committee will come to order, and, without objection, we will proceed. If someone would raise a point of order, we are one shy, but I am certain another member will come in.

The first bill before us today is H.R. 5792, a bill by Mr. Matthews to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

The CHAIRMAN. This is a bill we heard some time ago. Certain objection was raised to it, and we put it over to see if we could reconcile some matters.

Mr. Mosher, I think you are one that had not raised any objection to it, but you wanted to check.

Mr. MOSHER. Yes, Mr. Chairman. There were indications from informal discussions with the fruit and vegetable people which indicated they might be opposed. I requested and you generously agreed we ought to give them an opportunity to come in if they wanted to be heard.

Since then, I sent them copies of the testimony of the first hearings, and they examined all that material and have notified me, both the vegetable people and the fruit people in my district have notified me that although they still have some doubts, these doubts aren't serious enough to raise any objections to the bill, and they withdraw any objections, and so I would withdraw my objections and would vote for the bill.

The CHAIRMAN. There are certain amendments to the bill.

Will you read the amendments, Mr. Ducander?

Mr. DUCANDER. Yes, sir.

The first amendment was one brought up concerning making an 11-quart basket which could be used in the Canadian trade. To put this in, we rewrote the section so that section 2 of the bill will now read:

SEC. 2.(a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "eleven-quart basket," immediately after "eight-quart basket," and by inserting "fourteen-quart basket," immediately after "twelve-quart basket".



That latter part is rewriting.

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a) is further amended by inserting immediately after paragraph (b) the following new paragraph:

"(bb) The eleven-quart splint basket shall contain seven hundred thirty-nine and two-tenths cubic inches."

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a) is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."

Mr. FUQUA. Mr. Chairman, I move adoption of the amendment.

The CHAIRMAN. It has been moved the amendments be adopted. Is there objection? Without objection, the amendments are adopted.

Mr. FUQUA. We have one other requiring the stamping of the size on the container.

Mr. DUCANDER. I don't think it was actually adopted.

The CHAIRMAN. Will you read that?

Mr. DUCANDER. This was recommended by the Department of Agriculture.

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d) which precedes the word "provided" be amended to read as follows:

"That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment or to ship hampers, round stave baskets, or splint baskets for fruits or vegetables either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped and marked thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act: \* \* \*."

Mr. FUQUA. I move the adoption of the amendment.

The CHAIRMAN. It has been moved that we adopt the amendment.

Mr. ROUDEBUSH. Mr. Chairman, I move to report the bill as amended in committee, that the Chairman be authorized to take such necessary steps to report the bill as amended favorably to the House of Representatives.

The CHAIRMAN. It has been regularly moved and seconded that the Chairman be instructed to take such parliamentary steps as are necessary to see the bill is enacted into law. Is there any discussion? If not, all those in favor signify by saying "aye," contrary-minded—

Mr. FULTON of Pennsylvania. No.

The CHAIRMAN. Well, then, the ayes have it. Let the record note Mr. Fulton voted "no." The ayes have it and the bill is formally reported.

We will file a clean bill to incorporate the amendments.

(Whereupon, the committee proceeded to further business.)









LEGISLATIVE HISTORY

Public Law 88-516

H. R. 9334

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## INDEX AND SUMMARY OF H. R. 9334

- Dec. 3, 1963 Rep. Miller introduced H. R. 9334, which was referred to House Science and Astronautics Committee. Print of bill as introduced.
- Dec. 5, 1963 House committee reported H. R. 9334 without amendment. H. Report 999. Print of bill and report.
- Dec. 17, 1963 House passed H. R. 9334 without amendment.
- Dec. 19, 1963 H. R. 9334 was referred to Senate Commerce Committee. Print of bill as referred.
- Aug. 11, 1964 Senate committee voted to report (but did not actually report) H. R. 9334.
- Aug. 13, 1964 Senate committee reported H. R. 9334 without amendment. S. Report 1429. Print of bill and report.
- Aug. 14, 1964 Senate passed H. R. 9334 without amendment.
- Aug. 30, 1964 Approved: Public Law 88-516.





## DIGEST OF PUBLIC LAW 88-516

STANDARD CONTAINERS FOR FRUITS AND VEGETABLES.  
Amends the Standard Container Act of 1928 (which establishes specific standard sizes of hampers, round stave baskets, and splint baskets which may be manufactured for use in packing and shipping fresh fruits and vegetables) so as to add five additional standard sizes. The sizes to be added are the 1/16-bushel, the 7/8-bushel, and the 1 1/8-bushel hamper or round stave basket, and the 11-quart and the 14-quart splint basket. Requires the manufacturer to stamp the capacity in quarts or bushels on each container manufactured under the act.









88TH CONGRESS  
1ST SESSION

# H. R. 9334

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 3, 1963

Mr. MILLER of California introduced the following bill; which was referred to the Committee on Science and Astronautics

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## A BILL

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) the first sentence of the first section of the Act  
4       entitled "An Act to fix standards for hampers, round stave  
5       baskets, and splint baskets for fruits and vegetables, and for  
6       other purposes", approved May 21, 1928 (15 U.S.C. 257),  
7       is amended—

8               (1) by striking out "One-eighth bushel" and insert-  
9       ing in lieu thereof "One-sixteenth bushel, one-eighth  
10       bushel";



1           (2) by inserting “seven-eighths bushel,” immedi-  
2           ately after “three-fourths bushel,”; and

3           (3) by inserting “one-and-one-eighth bushels,”  
4           immediately after “one bushel,”.

5           (b) The first section of such Act of May 21, 1928 (15  
6 U.S.C. 257), is further amended—

7           (1) by redesignating paragraph (a) as paragraph  
8           (aa) and by inserting immediately preceding such  
9           paragraph the following new paragraph:

10          “(a) The standard one-sixteenth bushel hamper or  
11 round stave basket shall contain one hundred and thirty-four  
12 and four-tenths cubic inches.”;

13          (2) by inserting immediately after paragraph (d)  
14 the following new paragraph:

15          “(dd) The standard seven-eighths bushel hamper or  
16 round stave basket shall contain one thousand eight hundred  
17 and eighty-one and sixty-two one-hundredths cubic inches.”:  
18 and

19          (3) by inserting immediately after paragraph (e)  
20 the following new paragraph:

21          “(ee) The standard one-and-one-eighth bushel hamper  
22 or round stave basket shall contain two thousand four hun-  
23 dred and nineteen and twenty-two one-hundredths cubic  
24 inches.”

1        SEC. 2. (a) The first sentence of section 2 of such Act  
2 of May 21, 1928 (15 U.S.C. 257a), is amended by insert-  
3 ing “eleven-quart basket,” immediately after “eight-quart  
4 basket,” and by inserting “fourteen-quart basket,” imme-  
5 diately after “twelve-quart basket,”.

6        (b) Section 2 of such Act of May 21, 1928 (15  
7 U.S.C. 257a), is further amended by inserting immediately  
8 after paragraph (b) the following new paragraph:

9        “(bb) The eleven-quart splint basket shall contain seven  
10 hundred and thirty-nine and two-tenths cubic inches.”

11        (c) Section 2 of such Act of May 21, 1928 (15  
12 U.S.C. 257a), is further amended by inserting immediately  
13 after paragraph (c) the following new paragraph:

14        “(cc) The fourteen-quart splint basket shall contain nine  
15 hundred and forty and eight-tenths cubic inches.”

16        SEC. 3. That so much of the first sentence of section 5  
17 of such Act of May 21, 1928 (15 U.S.C. 257d), which  
18 precedes the word “*Provided*” be amended to read as  
19 follows:

20        “That it shall be unlawful to manufacture for sale or  
21 shipment, to offer for sale, to sell, to offer for shipment, or  
22 to ship, hampers, round stave baskets, or splint baskets for  
23 fruits or vegetables, either filled or unfilled that do not have  
24 the capacity in bushels or quarts clearly stamped or marked

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**A BILL**

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To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

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By Mr. MULLER of California

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DECEMBER 3, 1963

Referred to the Committee on Science and Astronautics

1 thereon and do not otherwise comply with this Act, or parts  
2 of such hampers, round stave baskets, or splint baskets that  
3 do not comply with this Act:”







Dec. 5, 1963

15. INDEPENDENT OFFICES APPROPRIATION BILL. Received the conference report on this bill. As reported the bill appropriates \$4,190,000 for civil defense and defense mobilization functions of Federal agencies as proposed by the Senate (House's figure, \$5,190,000); and provides that National Science Foundation appropriations may not be transferred to any other Government agency for research. (H. Rept. 1004). pp. 22388-92
16. AIR POLLUTION. Received the conference report on H. R. 6518, to improve, strengthen, and accelerate programs for the prevention and abatement of air pollution (H. Rept. 1003) pp. 22226-31
17. STANDARD CONTAINERS. The Science and Astronautics Committee reported without amendment H. R. 9334, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers (H. Rept. 999). p. 22392
18. WATER RESEARCH. The Irrigation and Reclamation Subcommittee of the Interior and Insular Affairs Committee voted to report to the full committee S. 2, to establish water resources research centers at land-grant colleges and State universities and promote a more adequate national program of water research. p. D961
19. FOREIGN AID. The "Daily Digest" states that the conferees agreed to file a report on H. R. 7885, the foreign aid authorization bill, and includes a table showing the amount requested by the administration, the amounts authorized by the House and Senate, and the final figures as agreed upon by the conferees. p. D962
20. RIVER BASINS. Conferees were appointed on H. R. 8667, to authorize additional appropriations for the prosecution of comprehensive plans for certain river basins. Senate conferees have already been appointed. p. 22231
21. LEGISLATIVE PROGRAM. Rep. Albert announced that on Mon., Dec. 9, the House will consider the conference reports on H. R. 7885, the foreign aid authorization bill, and H. R. 6518, to prevent air pollution; and that, beginning Wed., H. R. 8720, to amend the Manpower Development and Training Act, will be considered. p. 22388

ITEMS IN APPENDIX

22. COTTON. Speeches in the House by Reps. Casey, Berry, and Short during debate on the Cooley cotton bill. pp. A7413, A7416, A7430-1
23. FUTURES TRADING. Extension of remarks of Rep. McIntire inserting an article concerning trading of cottonseed oil and soybean oil futures and including a charge that FAS is "directing a planned cutback in foreign aid shipments of vegetable oils well below previous export forecasts made by Agriculture." pp. A7420-1
24. LOANS. Extension of remarks of Rep. Montoya urging that authority be given to Farmers Home Administration to make grants to small rural communities for development of rural community services. p. A7428
25. WHEAT. Speech in the House by Rep. Nelsen urging a better voluntary program for wheat growers. pp. A7431-2

26. EXPENDITURES. Extension of remarks of Rep. Pelly stating that "while Congress this year is setting a record for slow action on annual appropriations bills, it also may well establish an outstanding record for budget cutting." p. A 7432

27. PAY; PERSONNEL. Extension of remarks of Rep. Wallhauser inserting a letter from the Chairman of the Civil Service Commission appraising the Federal pay bill and discussing the possible need for passage of the bill. pp. A7433-4

BILLS INTRODUCED

28. WATER. H. R. 9364, by Rep. Leggett, to clarify the relationship of interests of the United States and of the States in the use of waters of certain streams to Interior and Insular Affairs Committee.

29. CONSERVATION. H. Res. 580, by Rep. Fraser, favoring the establishment of a North American Conservation Hall of Fame and Museum; to Interior and Insular Affairs Committee.

BILL APPROVED BY THE PRESIDENT

30. FEDERAL REGISTER. H. R. 2837, to amend the Federal Register Act so as to give the Administrative Committee of the Federal Register discretion as to techniques whereby books of the Code of Federal Regulations are updated (rather than requiring pocket supplements). Approved December 2, 1963 (Public Law 88-190).

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COMMITTEE HEARINGS DEC. 6:

Uniform policies relative to benefits and costs of multiple-purpose water resource projects, H. Interior (Cliff, FS, to testify).

Water pollution control bill, H. Public Works.

Vocational education bill, conferees (exec).

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## AMENDING THE STANDARD CONTAINER ACT OF 1928

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DECEMBER 5, 1963.—Referred to the House Calendar and ordered to be printed

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Mr. MILLER of California, from the Committee on Science and Astronautics, submitted the following

### REPORT

[To accompany H.R. 9334]

The Committee on Science and Astronautics, to whom was referred the bill (H.R. 9334) to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE BILL

The Standard Container Act (approved May 21, 1928) established standard sizes for certain fruit and vegetable containers made of wood, including hampers, round stave baskets, and splint baskets. The bill proposes to amend the act by adding three new sizes to that portion of the act dealing with hampers and round stave baskets, and two new sizes to that section dealing with splint baskets. The bill further amends the act by requiring manufacturers to stamp the capacity on each container permitted to be manufactured under the act.

#### EXPLANATION OF THE BILL

At the time the Standard Container Act of 1928 was enacted, a substantial portion of the fresh fruits and vegetables which entered interstate commerce was packed in hampers, round stave baskets and splint baskets covered by the act. In the intervening 35 years great changes have taken place in the containers used for fruits and vegetables. Of the large number of containers now widely used, such as fiberboard cartons, nailed and wirebound crates, wooden boxes and lugs, and mesh or paper bags, some were not even in use for fruits and vegetables at the time the act was passed. Especially since the end of World War II there has been a great increase in the number of types and sizes of containers manufactured. There are no restrictions in

Federal law on the shape, size, or capacity of containers used to pack or ship fresh fruits and vegetables except on hampers, baskets, and barrels. The packages authorized under the Standard Container Act of 1928 are primarily shipping containers used in wholesale trade, and, with the exception of the smaller sizes, are not used as retail packages. The principal reason for requesting authority for the manufacture of the additional sizes is to meet the competition from other types of containers.

This is a clean bill which supersedes H.R. 5792. Upon the recommendation of the Department of Agriculture the committee included language to amend the Standard Container Act and which would require the manufacturer to stamp the capacity on each container permitted to be manufactured under the act. The committee agreed that with the many gradations in sizes of containers available, the differentiation between sizes by means of this required marking is both necessary and desirable.

The committee also included the authorization for an 11-quart size container inasmuch as the Canadian Government uses this size container, and thus no differences will hereafter arise because of differences in container sizes as used in the two countries. The Department of Agriculture did not oppose including this language in the bill.

#### COMMITTEE RECOMMENDATIONS

A quorum being present, the committee favorably reported the bill and recommends its enactment.

#### COST AND BUDGET DATA

The bill would not require additional appropriations for the Department of Agriculture.

#### DEPARTMENT RECOMMENDATIONS

The Department of Agriculture interposes no objection to the enactment of the bill, and its report to the committee has been cleared by the Bureau of the Budget as indicated by the following letter:

DEPARTMENT OF AGRICULTURE,  
Washington, D.C., September 20, 1963.

HON. GEORGE P. MILLER,  
*Chairman, Committee on Science and Astronautics,*  
*House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request of April 24, 1963, for a report on H.R. 5792, a bill to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

The Standard Container Act of 1928 (act of May 21, 1928, as amended; 15 U.S.C. 257-257i) establishes specific standard sizes of hampers, round stave baskets, and splint baskets which may be manufactured for use in packing and shipping fresh fruits and vegetables. The following table shows the sizes of containers now permitted under the act, together with those which would be added under H.R. 5792:

## SIZES NOW AUTHORIZED

SIZES PROPOSED TO BE ADDED UNDER  
H.R. 5792

$\frac{1}{8}$  bushel hamper or round stave basket  
 $\frac{1}{4}$  bushel hamper or round stave basket  
 $\frac{3}{8}$  bushel hamper or round stave basket  
 $\frac{1}{2}$  bushel hamper or round stave basket  
 $\frac{5}{8}$  bushel hamper or round stave basket  
 $\frac{3}{4}$  bushel hamper or round stave basket

1 bushel hamper or round stave basket

$1\frac{1}{4}$  bushel hamper or round stave basket  
 $1\frac{1}{2}$  bushel hamper or round stave basket  
 2 bushel hamper or round stave basket  
 4 quart splint basket  
 8 quart splint basket  
 12 quart splint basket

16 quart splint basket  
 24 quart splint basket  
 32 quart splint basket

$\frac{1}{16}$  bushel hamper or round stave basket

$\frac{7}{8}$  bushel hamper or round stave basket

$1\frac{1}{8}$  bushel hamper or round stave basket

14 quart splint basket

This means that, if H.R. 5792 were enacted, hampers and round stave baskets could be manufactured in one-eighth bushel size intervals beginning at one-eighth bushel and running through  $1\frac{1}{4}$  bushel. In addition, a new one-sixteenth bushel size hamper or round stave basket would be authorized and a new 14-quart splint basket would be added. The packages authorized under the Standard Container Act of 1928 are primarily shipping containers, used in wholesale trading, and with the exception of the smaller sizes are not used as retail packages.

The Department has received no information from fruit and vegetable growers, shippers, receivers, or other potential users of the container sizes proposed in H.R. 5792 to indicate an interest in or need for these additional containers.

Section 4 of the Standard Container Act provides that the specifications of containers covered by the act shall be approved by the Secretary of Agriculture if such containers are of the prescribed capacity and not deceptive in appearance. No samples or specifications for the new sizes of containers proposed in H.R. 5792 have been submitted to the Department and, for this reason, we are not in a position to determine whether they would be deceptive in appearance when compared with the containers now permitted under this act.

In order to minimize the possibility of deception, it is recommended that the act be amended to require manufacturers to stamp the capacity on each container permitted to be manufactured under the act. With the many gradations in sizes of containers available, we believe that the differentiation of one size of container from another through the suggested marking is necessary and desirable. Therefore, we suggest that the portion of the first sentence of section 5 of the Standard Container Act of 1928 (15 U.S.C. 257d) which precedes the word "*Provided*" be amended to read as follows: "That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked



thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act: \* \* \*

At the time the Standard Container Act of 1928 was enacted, a substantial portion of the fresh fruits and vegetables which entered interstate commerce were packed in the hampers, round stave baskets, and splint baskets covered by the act. In the intervening 35 years great changes have taken place in the containers used for shipping fruits and vegetables. Of the large number of containers now widely used, such as fiberboard cartons, nailed and wirebound crates, wooden boxes and lugs, and mesh or paper bags, some were not even in use for fruits and vegetables at the time the act was passed. Especially since the end of World War II, there has been a great increase in the number of different types and sizes of containers manufactured. There are no restrictions by Federal law on the shape, size, or capacity of containers used to pack or ship fresh fruits and vegetables except hampers, baskets, and barrels.

Largely because of the growth in the use of these containers not covered by the Standard Container Act, it is estimated that less than 10 percent of the fresh fruits and vegetables shipped in interstate commerce now are packed in containers regulated under the act of 1928. Since the proponents of H.R. 5792 state that the principal reason for requesting authority for manufacture of additional sizes of hampers, round stave baskets, and splint baskets is to meet the competition from other types of containers, consideration might well be given to removing all restrictions imposed by the Standard Container Act of 1928 by repeal of the act.

While the Department does not object to the enactment of H.R. 5792, we believe that each container covered by the statute should be stamped or marked as to the capacity thereof. Moreover, we believe that H.R. 5792 should be considered in the light of the overall use of containers for marketing fresh fruits and vegetables.

The Bureau of Budget advises there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,  
*Secretary.*



## CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there are hereby printed in parallel columns the text of the provisions of existing law which would be amended and the corresponding section of the bill:

## EXISTING LAW

Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes (15 U.S.C. 257)

SEC. 1. The standard hampers and round stave baskets for fruits and vegetables shall be of the following capacities: One-eighth bushel, one-fourth bushel, three-eighths bushel, one-half bushel, three-fourths bushel, one bushel, and one-fourth bushels, one and one-half bushels, and two bushels, which, respectively, shall be of the cubic content set forth in this section. For the purposes of sections 257-257i of this title a bushel, standard dry measure, has a capacity of two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(a) The standard one-eighth-bushel hamper or round stave basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The standard one-fourth-bushel hamper or round stave basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(bb) The standard three-eighths bushel hamper or round stave basket shall contain eight hundred and six and four-tenths cubic inches.

## H. R. 9334

That (a) the first sentence of the first section of the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (15 U.S.C. 257), is amended—

(1) by striking out "One-eighth bushel" and inserting in lieu thereof "One-sixteenth bushel, one-eighth bushel";

(2) by inserting "seven-eighths bushel," immediately after "three-fourths bushel,"; and  
 (3) by inserting "one-and-one-eighth bushels," immediately after "one bushel,".

(b) The first section of such Act of May 21, 1928 (15 U.S.C. 257), is further amended—

(1) by redesignating paragraph (a) as paragraph (aa) and by inserting immediately preceding such paragraph the following new paragraph:

"(a) The standard one-sixteenth bushel hamper or round stave basket shall contain one hundred and thirty-four and four-tenths cubic inches.";

(c) The standard one-half bushel hamper or round stave basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(cc) The standard five-eighths bushel hamper or round stave basket shall contain one thousand three hundred and forty-four cubic inches.

(d) The standard three-fourths-bushel hamper or round stave basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(e) The standard one-bushel hamper or round stave basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

\* \* \* \* \*

SEC. 2. The standard splint baskets for fruits and vegetables shall be the four-quart basket, eight-quart basket, twelve-quart basket, sixteen-quart basket, twenty-four quart basket, and thirty-two quart basket, standard dry measure. For the purpose of sections 257-257i of this

(2) by inserting immediately after paragraph (d) the following new paragraph:

"(dd) The standard seven-eighths bushel hamper or round stave basket shall contain one thousand eight hundred and eighty-one and sixty-two and one-hundredths cubic inches."; and

(3) by inserting immediately after paragraph (e) the following new paragraph:

"(ee) The standard one-and-one-eighth bushel hamper or round stave basket shall contain two thousand four hundred and nineteen and twenty-two one-hundredths cubic inches."

title a quart standard dry measure has a capacity of sixty-seven and two-tenths cubic inches.

(a) The four-quart splint basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The eight-quart splint basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(c) The twelve-quart splint basket shall contain eight hundred and six and four-tenths cubic inches.

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\*

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "eleven-quart basket," immediately after "eight-quart basket," and by inserting "fourteen-quart basket," immediately after "twelve-quart basket,".

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (b) the following new paragraph:

"(bb) The eleven-quart splint basket shall contain seven hundred and thirty-nine and two-tenths cubic inches."

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d), which precedes the word "*Provided*" be amended to read as follows:

"That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets

SEC. 5. It shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets that do not comply with sections. 257-257i of this title:

EXISTING LAW

H.R. 9334

for fruits or vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act:"

○



88TH CONGRESS  
1ST SESSION

## House Calendar No. 168

# H. R. 9334

[Report No. 999]

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### IN THE HOUSE OF REPRESENTATIVES

DECEMBER 3, 1963

Mr. MILLER of California introduced the following bill; which was referred to the Committee on Science and Astronautics

DECEMBER 5, 1963

Referred to the House Calendar and ordered to be printed

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## A BILL

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) the first sentence of the first section of the Act  
4       entitled "An Act to fix standards for hampers, round stave  
5       baskets, and splint baskets for fruits and vegetables, and for  
6       other purposes", approved May 21, 1928 (15 U.S.C. 257),  
7       is amended—

8               (1) by striking out "One-eighth bushel" and insert-  
9       ing in lieu thereof "One-sixteenth bushel, one-eighth  
10       bushel";

1           (2) by inserting “seven-eighths bushel,” immedi-  
2           ately after “three-fourths bushel,”; and

3           (3) by inserting “one-and-one-eighth bushels,”  
4           immediately after “one bushel,”.

5           (b) The first section of such Act of May 21, 1928 (15  
6           U.S.C. 257), is further amended—

7           (1) by redesignating paragraph (a) as paragraph  
8           (aa) and by inserting immediately preceding such  
9           paragraph the following new paragraph:

10          “(a) The standard one-sixteenth bushel hamper or  
11          round stave basket shall contain one hundred and thirty-four  
12          and four-tenths cubic inches.”;

13          (2) by inserting immediately after paragraph (d)  
14          the following new paragraph:

15          “(dd) The standard seven-eighths bushel hamper or  
16          round stave basket shall contain one thousand eight hundred  
17          and eighty-one and sixty-two one-hundredths cubic inches.”;  
18          and

19          (3) by inserting immediately after paragraph (e)  
20          the following new paragraph:

21          “(ee) The standard one-and-one-eighth bushel hamper  
22          or round stave basket shall contain two thousand four hun-  
23          dred and nineteen and twenty-two one-hundredths cubic  
24          inches.”

1        SEC. 2. (a) The first sentence of section 2 of such Act  
2 of May 21, 1928 (15 U.S.C. 257a), is amended by insert-  
3 ing "eleven-quart basket," immediately after "eight-quart  
4 basket," and by inserting "fourteen-quart basket," imme-  
5 diately after "twelve-quart basket,".

6        (b) Section 2 of such Act of May 21, 1928 (15  
7 U.S.C. 257a), is further amended by inserting immediately  
8 after paragraph (b) the following new paragraph:

9        "(bb) The eleven-quart splint basket shall contain seven  
10 hundred and thirty-nine and two-tenths cubic inches."

11        (c) Section 2 of such Act of May 21, 1928 (15  
12 U.S.C. 257a), is further amended by inserting immediately  
13 after paragraph (c) the following new paragraph:

14        "(cc) The fourteen-quart splint basket shall contain nine  
15 hundred and forty and eight-tenths cubic inches."

16        SEC. 3. That so much of the first sentence of section 5  
17 of such Act of May 21, 1928 (15 U.S.C. 257d), which  
18 precedes the word "*Provided*" be amended to read as  
19 follows:

20        "That it shall be unlawful to manufacture for sale or  
21 shipment, to offer for sale, to sell, to offer for shipment, or  
22 to ship, hampers, round stave baskets, or splint baskets for  
23 fruits or vegetables, either filled or unfilled that do not have  
24 the capacity in bushels or quarts clearly stamped or marked

1 thereon and do not otherwise comply with this Act, or parts  
 2 of such hampers, round stave baskets, or splint baskets that  
 3 do not comply with this Act:”

House Calendar No. 168

88TH CONGRESS  
 1ST SESSION

**H. R. 9334**

[Report No. 999]

# A BILL

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

By Mr. MULDER of California

DECEMBER 3, 1963

Referred to the Committee on Science and Astronautics

DECEMBER 5, 1963

Referred to the House Calendar and ordered to be printed







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

(For information only;  
should not be quoted  
or cited)

Issued Dec. 18, 1963

For actions of Dec. 17, 1963

88th-1st, No. 208

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HIGHLIGHTS: Senate committee voted to report foreign aid appropriation bill.  
House received conference report on State-Justice-Commerce appropriation bill.  
Sen. Stennis urged protection of cattle industry from foreign meat imports. Rep.  
Langen inserted his statement urging increase in sugarbeet production.

## HOUSE

1. STATE-JUSTICE-COMMERCE-JUDICIARY AND RELATED AGENCIES APPROPRIATION BILL, 1964.  
Received the conference report on this bill, H. R. 7063 (H. Rept. 1056)(pp. 23612-4). The bill includes \$13,500,000 for the Area Redevelopment Administration, and includes items for the Small Business Administration, Special Representative for Trade Negotiations, and the Tariff Commission.
2. LEGISLATIVE APPROPRIATION BILL, 1964. Considered the conference report and acted on certain amendments in disagreement on the bill, H. R. 6868. Other amendments remain in disagreement. pp. 23651-4
3. WATER RESOURCES; RIVER BASINS. Considered the conference report on H. R. 8067, to authorize additional appropriations for the prosecution of comprehensive plans for certain river basins (pp. 23625-43). By a vote of 329 to 41, agreed to a motion by Rep. Davis (Tenn.) to insist on disagreement with a Senate amendment to authorize the Knowles Dam and Reservoir, Mont., after

rejecting, 66 to 132, a motion by Rep. Olsen to recede from disagreement and concur in the amendment (pp. 23636-43). Rep. Cooley expressed his opposition to the Cape Fear River Basin project, N. C., as submitted by the Corps of Engineers and supported the proposal of the Soil Conservation Service for a series of smaller dams for the project (pp. 23631-2).

4. D. C. APPROPRIATION BILL, 1964. Received the conference report on this bill, H. R. 7431 (H. Rept. 1055). pp. 23611-2
5. STANDARD CONTAINERS. Passed without amendment H. R. 9334, to amend the Standard Container Act so as to permit the use of additional standard containers for fruits and vegetables. pp. 23602-3
6. CLAIMS. Concurred in the amendment of the Senate to H. R. 2985, to permit actions on tort claims to be brought in the judicial district in which the act or omission occurred. This bill will now be sent to the President. p. 23593
7. FORESTRY; RECREATION. Passed as reported H. J. Res. 658, to authorize and request the President to proclaim 1964 as "See America Year." p. 23609
8. RECLAMATION. Passed as reported H. R. 8171, to reauthorize the Riverton extension unit, Missouri River Basin project, to include all the Riverton reclamation project, except the Muddy Ridge area. pp. 23603-5
9. CREDIT UNIONS. Passed with amendments H. R. 8459, to amend the Federal Credit Union Act so as to allow Federal credit unions greater flexibility in their organization and operations. pp. 23608-10
10. FOREIGN TRADE. Rep. Rogers (Fla.) referred to a report that steps are being taken to "make it easier for foreign shipowners to remove certain of their ships from the Cuban run, in return for a pledge to pull all their other ships out as present contracts expire," and questioned if it is "possible that we are trying to make it a little easier on these foreign shipowners to permit them to switch from the Cuban run to take advantage of the proposed U. S. sale of wheat to Russia." p. 23593
11. ELECTRIFICATION. Concurred in the Senate amendment to H. R. 4062, to authorize the Secretary of the Interior to market power generated at Amistad Dam on the Rio Grande. This bill will now be sent to the President. p. 23614
12. PASSED OVER without prejudice S. J. Res. 17, to designate the lake to be formed by the waters impounded by the Flaming Gorge Dam as "Lake O'Mahoney" (p. 23594), and H. R. 1096, to authorize the Secretary of the Interior to cooperate with Wisconsin in the designation and administration of the Ice Age National Scientific Reserve (p. 23599, 23662).
13. LANDS. Considered H. R. 8970, to revise the procedures established by the Hawaii Statehood Act for the conveyance of certain lands of Hawaii. pp. 23601-2
14. FOREIGN TRADE. Several Representatives urged enactment of legislation to make the Antidumping Act more effective. p. 23656



Act. Pending the appropriation of such funds, not to exceed \$20,000 of funds appropriated for the construction of Falcon Dam shall be available for the payment of administrative costs of the claims program provided for in this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### REVISE THE PROCEDURES ESTABLISHED BY PUBLIC LAW 86-3

The Clerk called the bill (H.R. 8970) to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, for the conveyance of certain lands to the State of Hawaii, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that an identical Senate bill, S. 2275, be considered in lieu of the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There being no objection, the Clerk read the Senate bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) (i) whenever after August 21, 1964, any of the public lands and other public property as defined in section 5(g) of Public Law 86-3 (73 Stat. 4, 6), or any lands acquired by the Territory of Hawaii and its subdivisions, which are the property of the United States pursuant to section 5(c) or become the property of the United States pursuant to section 5(d) of Public Law 86-3, except the lands administered pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, and (ii) whenever any of the lands of the United States on Sand Island, including the reef lands in connection therewith, in the city and county of Honolulu, are determined to be surplus property by the Administrator of General Services (hereinafter referred to as the "Administrator") with the concurrence of the head of the department or agency exercising administration or control over such lands and property, they shall be conveyed to the State of Hawaii by the Administrator subject to the provisions of this Act.

(b) Such lands and property shall be conveyed without monetary consideration, but subject to such other terms and conditions as the Administrator may prescribe: *Provided*, That, as a condition precedent to the conveyance of such lands, the Administrator shall require payment by the State of Hawaii of the estimated fair market value, as determined by the Administrator, of any buildings, structures, and other improvements erected and made on such lands after they were set aside. In the event that the State of Hawaii does not agree to any payment prescribed by the Administrator, he may remove, relocate, and otherwise dispose of any such buildings, structures, and other improvements under other applicable laws, or if the Administrator determines that they cannot be removed without substantial damage to them or the lands containing them, he may dispose of them and the lands involved under other applicable laws, but, in such cases he shall pay to the State of Hawaii that portion of any proceeds from such disposal which he estimates to be equal to the value of the lands involved. Nothing in this section shall prevent the disposal by the Ad-

ministrator under other applicable laws of the lands subject to conveyance to the State of Hawaii under this section if the State of Hawaii so chooses.

Sec. 2. Any lands, property, improvements, and proceeds conveyed or paid to the State of Hawaii under section 1 of this Act shall be considered a part of public trust established by section 5(f) of Public Law 86-3, and shall be subject to the terms and conditions of that trust.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the bill we have before us today, H.R. 8970, is an outgrowth of the Hawaiian Statehood Act of 1959. Its primary purpose is to provide a means for transferring title to the State of Hawaii of certain property within the State boundaries which is now being utilized by the Federal Government, if such property becomes surplus to the needs of the United States after August 21, 1964, the fifth anniversary of the Statehood Act. A secondary purpose is to convey to the State, Sand Island and adjacent coral reef lands in Honolulu Harbor when they become surplus to Federal needs.

Mr. Speaker, some of our colleagues will recall that in section 5(b) of the Hawaiian Statehood Act, Congress granted to the State, "the United States title to all the public lands and other property within the State boundaries immediately prior to its admission to the Union." For clarification purposes Congress defined "public lands and public property" as that property which the Republic of Hawaii ceded to the United States at the time of its annexation and certain other property acquired in exchange for the ceded property.

Being realistic, Congress recognized that some of this property was being used by the Federal Government and could not be released to the State. Congress also recognized that it was possible that certain other properties might be set aside by act of Congress or Executive order of the President during the 5-year transition period. Finally Congress recognized that some property would undoubtedly become surplus during the transition period and directed all Federal agencies to inventory their needs and report to the President thereon as to surplus holdings that could be transferred to the State on or before August 21, 1964.

What Congress did not do was to cover the case of property that ceases to be needed after August 21, 1964. It is to accomplish this that makes desirable and necessary enactment of H.R. 8970.

When Hawaii was admitted to the Union, there were about 410,000 acres under Federal control. Of this acreage 230,000 were and still are in national parks and are excluded from the operation of H.R. 8970 by its own terms. The other 180,000 are made up of 60,000 acres of ceded land set aside for Federal use by Federal action and 120,000 acres used by the United States under various territorial permits and licenses.

Since statehood was granted, only about 400 acres of ceded lands have been earmarked surplus and turned over to

Hawaii. Between now and August 21, 1964, more acreage may be declared surplus, but the bulk of the anticipated surplusage will not be so designated until after August 21, 1964. The provisions of H.R. 8970 will permit transfer of these surplus lands after the 5-year date. Since much of this property originally belonged to the Republic of Hawaii and came to the United States by cession, it seems reasonable that it should be returned to the State in accordance with the terms of H.R. 8970 rather than being subject to disposition under the surplus property laws.

Now let us look at Sand Island and its adjoining reef lands. Two questions are involved. The first is, do they belong to the United States either through cession or purchase? If the answer is "Yes," then does the disposition of the U.S. interest in the submerged portion of this land under the Statehood Act run afoul of the provisions of the Submerged Lands Act of 1953, which the Statehood Act specifically made applicable to Hawaii?

At the time of annexation, Sand Island consisted of fewer than 10 acres but through dredging and natural accretion has now grown to about 550 acres of fast land, some of which is under water much of the time. An Executive order issued in 1920 assumed Sand Island to be public land. This assumption stems from the existence of several deeds by private parties purporting to convey to the United States part of the land. The copies of the deeds indicate the authenticity of the conveyance which are properly filed in Honolulu.

Enactment of this bill will permit whatever interest the United States has in Sand Island and its adjoining reef lands to be treated as are interests in ceded lands about which there are no title questions. Of the 550 acres on Sand Island and the reef, 125 acres have never been claimed by the United States and are presently controlled by the Hawaiian Aeronautics Commission pursuant to an executive order of the Governor. Another 202 acres were transferred to the territory prior to statehood. Some 260 acres of the fast land plus adjacent submerged lands constitute a military reservation; 242 of these acres are probably going to be declared surplusage to military needs. The remaining acreage will continue to be used by the military and the Coast Guard.

Mr. Speaker, enactment of H.R. 8970 does not involve the expenditure of Federal funds nor does it convey more property to the State of Hawaii than Congress anticipated in the Statehood Act. It does, however, permit the Federal Government to have time beyond August 21, 1964, to decide on property that may be transferred to the State when it is no longer needed. I urge favorable consideration of H.R. 8970 in its present form.

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. SAYLOR'S remarks will appear hereafter in the Appendix.]



(Mr. GILL (at the request of Mr. ASPINALL) was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GILL. Mr. Speaker, the final passage of this measure by the House is a source of great satisfaction to us from Hawaii. Land is a peculiarly valuable asset to an island State; it is essential that all that is usable be put to productive purposes for our people.

The ceded land, with which this measure deals, was originally government land of Hawaii, given to the Federal Government, without compensation, at the time of annexation. It is fitting that this land, when it becomes surplus to the Federal needs, be returned to Hawaii, free of charge, for the use of its people. This measure would allow this practice, which has been the rule since annexation, to continue after August 21, 1964, the end of the 5-year period established by the Statehood Act of 1959.

It has been said that this 5-year period, during which certain land matters were to be settled between the State and the Federal Government, was a mistake. Perhaps this is so. Certainly, the Congress at that time did not clearly foresee that set-aside ceded land in Hawaii would continue to become surplus to Federal needs for many more years in the future. In any case, this 5-year requirement has had a valuable effect. It has caused the various agencies involved to enter into a concentrated review of their landholdings and in many cases, justify them. This will be valuable in the years ahead, particularly in such doubtful areas as Bellows Air Force Base and similar parcels on the island of Oahu.

This bill has a prime, immediate importance to the State of Hawaii in that it clears the way for the return of all of the rest of Sand Island beyond that needed by the Coast Guard. The bill also includes connected or adjacent reef areas. This should open for State development not only the surplus fast land of Sand Island, but also much developable area on the reefs to the north and west of the island. I see this land and reef, now largely unused or underused, as a prime industrial and recreational area of great benefit to the State and the people of Honolulu.

No remarks on this bill would be complete without mentioning with gratitude the help that so many in the House have given to its passage. I would like to select for special mention the gentleman from Colorado, WAYNE ASPINALL, and the gentleman from New York, LEO O'BRIEN, for their skilled handling of the measure in the House Interior Committee and here on the floor. The gentleman from Pennsylvania, JOHN SAYLOR, and the gentleman from Florida, JIM HALEY, along with my other colleagues in the committee, deserve mention for their particular support.

To all of you, the people of Hawaii give their thanks, and aloha.

(Mr. MATSUNAGA (at the request of Mr. ASPINALL) was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MATSUNAGA. Mr. Speaker, first of all, I wish to thank the chairman of the House Committee on Interior and Insular Affairs, the gentleman from Colorado [Mr. ASPINALL], and the chairman of the subcommittee, the gentleman from New York [Mr. O'BRIEN] for the expeditious manner in which the bill now under consideration was handled. I wish also to thank the ranking minority member of the Interior Committee, the gentleman from Pennsylvania [Mr. SAYLOR] and the gentleman from Florida [Mr. HALEY] for their part in getting the bill through the committee.

Mr. Speaker, the bill now before us, H.R. 8970, introduced by my colleague, the gentleman from Hawaii [Mr. GILL], is identical in every respect to H.R. 8977, a bill which I introduced.

All that the proposed legislation does is to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, and provide for the conveyance of certain lands which rightfully belong to the State of Hawaii. Its basic purpose is to maintain the residual interest of the State of Hawaii in lands and property which was ceded to the United States by the Republic of Hawaii at the time of annexation or set aside for Federal use from land owned by the Territory of Hawaii—an interest long recognized in both Federal law and practice. In essence, the bill provides for a continuation of the 60-year practice of returning to the State such lands as are found to be surplus to the needs of the Federal Government.

The Hawaii Statehood Act fixed August 21, 1964, as the closing date for the United States to complete its review of all land holdings in Hawaii to determine which parcels, if any, are surplus to its needs. This closing date was intended to spur the Federal Government into its determination and declaration of surplus property. It has, however, become a restriction which may, unless removed, cast a cloud upon the legal title of lands returned to the State of Hawaii under the provisions of the Statehood Act. We are here seeking a correction of a situation which was never intended, through an elimination of the August 21 deadline.

To allay any misapprehension, it should be pointed out that the proposed measure does not in any way amend the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.). It only establishes a unique procedure applicable only to the State of Hawaii for returning surplus ceded lands to the State of Hawaii beyond the expiration date set in the Hawaii Statehood Act and provides for the return to Hawaii of that part of Sand Island which is now surplus to the needs of the Federal Government. Even after this bill is enacted into law it will still be necessary to follow all of the procedures contained in existing law, just as it has always been with regard to lands previously declared surplus under the Hawaii Statehood Act.

I ask your favorable vote on the bill under consideration so that Hawaii's just due may be forthcoming, nothing more.

## AMENDING THE STANDARD CONTAINER ACT OF 1928

The Clerk called the bill (H.R. 9334) to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first sentence of the first section of the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (15 U.S.C. 257), is amended—

(1) by striking out "One-eighth bushel" and inserting in lieu thereof "One-sixteenth bushel, one-eighth bushel";

(2) by inserting "seven-eighths bushel," immediately after "three-fourths bushel,"; and

(3) by inserting "one-and-one-eighth bushels," immediately after "one bushel,".

(b) The first section of such Act of May 21, 1928 (15 U.S.C. 257), is further amended—

(1) by redesignating paragraph (a) as paragraph (aa) and by inserting immediately preceding such paragraph the following new paragraph:

"(a) The standard one-sixteenth bushel hamper or round stave basket shall contain one hundred and thirty-four and four-tenths cubic inches.";

(2) by inserting immediately after paragraph (d) the following new paragraph:

"(dd) The standard seven-eighths bushel hamper or round stave basket shall contain one thousand eight hundred and eighty-one and sixty-two one-hundredths cubic inches."; and

(3) by inserting immediately after paragraph (e) the following new paragraph:

"(ee) The standard one-and-one-eighth bushel hamper or round stave basket shall contain two thousand four hundred and nineteen and twenty-two one-hundredths cubic inches."

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "eleven-quart basket," immediately after "eight-quart basket," and by inserting "fourteen-quart basket," immediately after "twelve-quart basket,".

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (b) the following new paragraph:

"(bb) The eleven-quart splint basket shall contain seven hundred and thirty-nine and two-tenths cubic inches."

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d), which precedes the word "Provided" be amended to read as follows:

"That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act:"



The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### AMENDING AN ACT TO ORGANIZE AND MICROFILM THE PAPERS OF PRESIDENTS OF THE UNITED STATES

The Clerk called the bill (H.R. 8465) to amend the act entitled "An act to organize and microfilm the papers of Presidents of the United States in the collections of the Library of Congress."

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to organize and microfilm the papers of the Presidents of the United States in the collections of the Library of Congress" (71 Stat. 368) is hereby amended by striking out section 2 by which there was authorized the appropriation of a sum of \$720,000 to remain available until expended and by substituting the following:

"SEC. 2. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### POLICING OF BUILDINGS AND GROUNDS OF THE SMITHSONIAN INSTITUTION

The Clerk called the bill (H.R. 9036) to amend the act of October 24, 1951 (65 Stat. 634; 40 U.S.C. 193(n)-(w)), as amended, relating to the policing of the buildings and grounds of the Smithsonian Institution and its constituent bureaus.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Act of October 24, 1951 (65 Stat. 634), as amended (40 U.S.C. 193(n)-(w)), is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and all other areas in the District of Columbia under their control."

SEC. 2. Section 7 of the Act of October 24, 1951, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and they may be furnished, without charge, with uniforms and such other equipment as may be necessary for the proper performance of their duties, including badges, revolvers, and ammunition."

SEC. 3. Section 9 of the Act of October 24, 1951, as amended, is amended to read as follows:

"SEC. 9. For the purpose of this Act 'buildings and grounds' shall mean—

"(1) The Smithsonian Institution and its grounds which shall be construed to include the following:

"(A) the Smithsonian Building, the Arts and Industries Building, the Freer Gallery of Art Building, the Air and Space Building, the Museum of Natural History, the Museum of History and Technology Building, and all other buildings of the Smithsonian Institution within the Mall, including the entrance walks, unloading areas, and other pertinent service roads and parking areas;

"(B) the National Zoological Park comprising all the buildings, streets, service roads, walks, and other areas within the boundary fence of the National Zoological Park in the District of Columbia and including the public space between the said fence and the face of the curb lines of the adjacent city streets; and

"(C) all buildings, service roads, walks, and other areas within the exterior boundaries of any real estate or land or interest in land (including temporary use) which shall hereafter be acquired by the Smithsonian Institution by gift, purchase, exchange of Government-owned land, or otherwise, when determined by the Secretary of the Institution to be necessary for the adequate protection of persons or property therein and suitable for administration as a part of the Smithsonian Institution.

"(2) The National Gallery of Art and its grounds, which shall be held to extend to the line of the face of the south curb of Constitution Avenue Northwest, between Seventh Street Northwest, and Fourth Street Northwest, to the line of the face of the west curb of Fourth Street Northwest, between Constitution Avenue Northwest, and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Fourth Street Northwest, and Seventh Street Northwest; and to the line of the face of the east curb of Seventh Street Northwest, between Madison Drive Northwest, and Constitution Avenue Northwest."

SEC. 4. The Act of October 24, 1951, as amended, is further amended by adding a new section 11 as follows:

"SEC. 11. The special police provided for in section 1 of this Act are authorized to enforce concurrently with the United States Park Police the laws and regulations applicable to the National Capital Parks, and to make arrests for violations of sections 2 and 4, inclusive of this Act, within the several areas located within the exterior boundaries of the face of the curb lines of the squares within which the aforementioned buildings are located."

With the following committee amendment:

Page 4, line 7, after section 2, strike out the word "and" and insert the word "to".

The committee amendment was agreed to

(Mr. CANNON asked and was given permission to extend his remarks at this point in the RECORD.)

[Mr. CANNON'S remarks will appear hereafter in the Appendix.]

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### ACQUIRING CERTAIN LANDS, RIVERTON RECLAMATION PROJECT, WYOMING

The Clerk called the bill (H.R. 8171) to reauthorize the Riverton extension unit, Missouri River Basin project, to include all the Riverton reclamation project except the Muddy Ridge area, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the general plan for the Riverton extension unit of the Missouri River Basin project, heretofore authorized under section 9 of the

Flood Control Act of 1944 (58 Stat. 887), is modified to include completion of construction, works, and lands rehabilitation, water conservation, fish and wildlife conservation, and relief to water users on the Riverton Federal reclamation project except the Muddy Ridge area, substantially in accord with the recommendations contained in the report of the Wyoming reclamation projects survey team as set out in House Document Numbered (Eighty-eighth Congress, first session), and as so modified is reauthorized under the designation "Riverton Unit of the Missouri River Basin Project".

SEC. 2. The Secretary of the Interior (hereafter called the Secretary) is authorized to negotiate and execute an amendatory repayment contract with the Midvale Irrigation District covering lands of the first and second division of the Riverton unit. This contract shall supersede existing repayment contracts between the Midvale Irrigation District and the United States. The contract shall provide, among other things, that (a) the period provided in subsection (d), section 9, of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h) for repayment of the cost assigned to be repaid by the water users may be extended to fifty years from and including the year in which said contract is confirmed, or to as near that number of years as is consistent with the adoption and operation of a variable repayment plan; (b) during the period required to construct and test the adequacy of drains and other water conservation works the rates of charge to land classes and the acreage assessable in each land class shall be as established in the amendatory repayment contract dated June 26, 1952; (c) at the close of such construction and test period, and upon the Secretary's approval of a new land classification, the rates of charge to land classes and the acreages assessable shall be in accordance with amortization capacity and classification of such lands as determined by the Secretary; and (d) during the first ten years of the repayment period pursuant to said contract, the amount to be paid in any year by the Midvale Irrigation District shall be reduced by the amounts which the district has credited in the previous year to water users who have provided tile for the project drainage program: *Provided*, That the total of such reductions shall not exceed \$50,000.

SEC. 3. (a) During the period of constructing, installing, and testing the canal lining and drainage works now or hereafter authorized for the lands of the North Portal, North Pavillion, and Cottonwood Bench of the third division of the Riverton unit, water for said lands shall be furnished on an individual temporary application basis at rates at least equal to the per acre operation and maintenance costs of the irrigable acreage of the third division. Operation and maintenance costs attributable to lands for which no temporary water application is filed shall be nonreturnable and nonreimbursable.

(b) When the Secretary is satisfied that an area of sufficient size to form an economically feasible subunit of the third division of the Riverton unit is capable of sustained production under irrigation use, he shall so announce subject to the provisions of subsection (c) of this section and he thereupon may enter into a repayment contract with an irrigation district representing those lands, which contract shall provide, among other things, that (a) the period provided in subsection (d), section 9, of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h), for repayment of the construction cost assigned to be repaid by the water users may be extended to fifty years from and including the year in which said contract is confirmed, or to as near that number of years as is consistent with the adoption and operation of a variable repayment



plan, and (b) that repayment by the water users shall be in accordance with the amortization capacity and classification of said lands as determined by the Secretary.

(c) If there is no irrigation district satisfactory to the Secretary or if a repayment contract has not been executed by the time the Secretary makes the announcement provided for in the preceding subsection, the Secretary may, until a repayment contract is executed, continue to deliver water under temporary water applications, and, in that event, he shall include an appropriate construction charge component varied according to land class in the annual rates of charge announced each year for irrigation water. No payment of such construction charge component shall shorten the repayment period of fifty years, and such payments shall be credited to project costs not recovered by repayment contracts.

SEC. 4. (a) Construction and rehabilitation and betterment costs of the Riverton unit which the Secretary determines to be assignable to the lands classified as permanently unproductive shall be nonreturnable and nonreimbursable: *Provided*, That whenever new lands, or lands formerly classified as nonproductive, are subsequently classified or reclassified as productive, the repayment obligation of the repayment organization within which such lands are included shall be appropriately increased.

(b) Construction and rehabilitation and betterment costs of the Riverton unit allocated to irrigation which are not assigned to be repaid by irrigation water users shall be returnable from revenues derived from the marketing of power of the Missouri River Basin project.

(c) All miscellaneous net revenues of the Riverton unit shall accrue to the United States and shall be applied against irrigation costs not assigned to be repaid by irrigation water users.

SEC. 5. The limitation on lands held in single ownership which may be eligible to receive project water from, through, or by means of project works shall be one hundred and sixty acres of class 1 land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

SEC. 6. (a) The Secretary may acquire any interest in any tract of land, patented or unpatented, which in his opinion has been rendered unsuitable for sustained irrigation production because of seepage from the project irrigation system and which it is not feasible to reclaim by draining or leaching or both, including farm units that the Secretary determines to be incapable of supporting a family. Such lands shall be acquired at a price to be approved by the Secretary, representing their appraised value prior to becoming unsuitable for sustained irrigation production plus the appraised value of all improvements at the time of acquisition, and pursuant to such terms and conditions as the Secretary may prescribe.

(b) The Secretary may acquire lands, including farm units and improvements thereon, which the owners signify by written notice to the Secretary that they desire to convey to the United States. Such lands shall be acquired at their fair market value as determined by the Secretary.

(c) Property acquired by the United States under this section shall be available for disposal under the terms of the Farm Unit Exchange Act of August 13, 1953 (67 Stat. 566), or at public or private sale for not less than the appraised value at the time of sale. Costs incurred by the Secretary under this section which are not offset by returns from sales shall be nonreimbursable and nonreturnable.

SEC. 7. As an alternative to the credit for payments of land development charges allowed by section 4(b) of the Farm Unit Exchange Act of August 13, 1953, supra, an owner or entryman, having made or making

an exchange under that Act may be given credit on construction charges payable in connection with the lieu unit or may, upon filing of an application therefor within two years from the date of this Act, or within two years of the date of any relinquishment subsequent to the date of this Act, be reimbursed in cash for such credits.

SEC. 8. Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"(a) That the Secretary of the Interior shall negotiate with the entrymen on and the owners of land within the Third Division of the Riverton Federal reclamation project, Wyoming, for the purchase of their lands, patented or unpatented, at a price equal to the appraised value thereof and of the improvements thereupon. In the case of any lands which were represented as being suitable for sustained irrigation production in the land classification in force at the time entry was made or the lands were acquired by the present owner (or, if the present owner acquired the same by descent or devise, by his predecessor in title), such value shall be determined without reference to any deterioration in their irrigability subsequent to the time of entry or acquisition arising from above-normal seepage and/or inadequate drainage. The Secretary is authorized to acquire options for the purchase of such lands in the name of the United States. He shall make a final report on the result of his negotiations and on options acquired to the President of the Senate and the Speaker of the House of Representatives on or before June 30, 1964, and, upon the expiration of not less than sixty calendar days after the submission of this report, he may acquire such lands.

"(b) Property acquired by the United States under this section shall be available for disposal under the terms of the Farm Unit Exchange Act of August 13, 1953 (67 Stat. 566), or at public or private sale for not less than the appraised value at the time of such sale. Costs incurred by the Secretary under this section which are not offset by returns from sales shall be nonreimbursable and nonreturnable.

"SEC. 2. The Secretary is authorized to continue to deliver water to the lands of the Third Division during calendar years 1964, 1965, and 1966 as under the provisions of section 9, subsection (d) (1), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195; 43 U.S.C. 485h(d)) but without regard to the time limitation therein specified. Water shall be furnished only upon individual application therefor and upon payment of an amount for each acre to which water is to be furnished to the applicant during the year in question equal to the estimated average cost per acre for all lands to be irrigated that year of operating and maintaining the Third Division. Prior to the expiration of this three-year period (January 1, 1967), the Secretary shall determine whether there are sufficient lands capable of sustained production under irrigation use in the North Portal, North Pavilion, and Cottonwood Bench areas of the Third Division to form an economically feasible unit and shall report his findings thereon to the Congress.

"SEC. 3. Notwithstanding any other provision of law, the limitation of lands held in single ownership within the Third Division which are eligible to receive project water from, through, or by means of project works shall be one hundred and sixty acres of class 1 land or the equivalent thereof in other land classes, as determined by the Secretary.

"SEC. 4. Construction costs of the Third Division which the Secretary determines to be assignable to the lands classified as permanently nonproductive shall be nonreturnable and nonreimbursable under the Federal reclamation laws: *Provided*, That whenever new lands, or lands formerly classified as nonproductive are subsequently classified or reclassified as productive, the repayment obligation of the repayment organization within which such lands are included shall be appropriately increased.

"SEC. 5. (a) Notwithstanding any other provision of law, any administrative regulation, or the terms of any mortgage or other security instrument, no real property on the Third Division which has heretofore been mortgaged or otherwise encumbered as security for a debt to the United States or any of its agencies shall be subject to foreclosure or other process of law for enforcement of the debt between the effective date of this Act and December 1, 1964: *Provided*, That nothing contained in the foregoing shall operate to discharge any obligation of the debtor to the United States.

"(b) Notwithstanding any other provision of law or any administrative regulation, no agency of the United States shall hereafter and prior to December 1, 1964, take as security for a debt to the United States or to that or any other agency of the United States any mortgage or other form of encumbrance on real property on the Third Division unless (1) the debt to the United States or its agency has heretofore been incurred and the security has heretofore been given and is required to be continued in connection with a renewal or refinancing of the debt or (2) the debtor specifically waives, with the consent of the Secretary of the Interior, the privilege of selling his land to the United States as provided in the first section of this Act.

"SEC. 6. Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available in an amount of not more than \$2,000,000 for the acquisition of lands as provided in section 1(a) of this Act and for additional drainage facilities, canal lining, and structure replacements: *Provided*, That all miscellaneous net revenues received from the sale of lands under section 1(b) of this Act shall be applied against such costs."

The committee amendment was agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the enactment of H.R. 8171 is intended to provide the basis for settlement of the physical, economic, and financial problems that have plagued the third division of the Riverton project in Wyoming almost since its beginning. The legislation would authorize the Secretary of the Interior to acquire lands, including farm units and the improvements thereon, from those settlers who want to leave the project and to continue to deliver water for 3 years to those settlers who want to remain on the project and to others who may wish to acquire lands in the third division. The committee believes that this 3-year period is sufficient time for the Bureau of Reclamation to determine whether an economically feasible unit can be formed from lands of the third division.

Although the legislation does not require authority for the appropriation of additional funds it authorizes the expenditure of not more than \$2 million from funds already appropriated or from







88TH CONGRESS  
1ST SESSION

# H. R. 9334

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IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 18), 1963  
Read twice and referred to the Committee on Commerce

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## AN ACT

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) the first sentence of the first section of the Act  
4       entitled "An Act to fix standards for hampers, round stave  
5       baskets, and splint baskets for fruits and vegetables, and for  
6       other purposes", approved May 21, 1928 (15 U.S.C. 257),  
7       is amended—

8               (1) by striking out "One-eighth bushel" and insert-  
9       ing in lieu thereof "One-sixteenth bushel, one-eighth  
10       bushel";



1           (2) by inserting "seven-eighths bushel," immedi-  
2           ately after "three-fourths bushel,"; and

3           (3) by inserting "one-and-one-eighth bushels,"  
4           immediately after "one bushel,".

5           (b) The first section of such Act of May 21, 1928 (15  
6 U.S.C. 257), is further amended—

7           (1) by redesignating paragraph (a) as paragraph  
8           (aa) and by inserting immediately preceding such  
9           paragraph the following new paragraph:

10          “(a) The standard one-sixteenth bushel hamper or  
11 round stave basket shall contain one hundred and thirty-four  
12 and four-tenths cubic inches.”;

13           (2) by inserting immediately after paragraph (d)  
14 the following new paragraph:

15          “(dd) The standard seven-eighths bushel hamper or  
16 round stave basket shall contain one thousand eight hundred  
17 and eighty-one and sixty-two one-hundredths cubic inches.”;  
18 and

19           (3) by inserting immediately after paragraph (e)  
20 the following new paragraph:

21          “(ee) The standard one-and-one-eighth bushel hamper  
22 or round stave basket shall contain two thousand four hun-

dred and nineteen and twenty-two one-hundredths cubic inches.”

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting “eleven-quart basket,” immediately after “eight-quart basket,” and by inserting “fourteen-quart basket,” immediately after “twelve-quart basket,”.

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (b) the following new paragraph:

“(bb) The eleven-quart splint basket shall contain seven hundred and thirty-nine and two-tenths cubic inches.”

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

“(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches.”

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d), which precedes the word “*Provided*” be amended to read as follows:

“That it shall be unlawful to manufacture for sale or

1 shipment, to offer for sale, to sell, to offer for shipment, or  
2 to ship, hampers, round stave baskets, or splint baskets for  
3 fruits or vegetables, either filled or unfilled that do not have  
4 the capacity in bushels or quarts clearly stamped or marked  
5 thereon and do not otherwise comply with this Act, or parts  
6 of such hampers, round stave baskets, or splint baskets that  
7 do not comply with this Act:"

Passed the House of Representatives December 17, 1963.

Attest:

RALPH R. ROBERTS,

*Clerk.*





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**AN ACT**

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To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

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DECEMBER 19 (legislative day, DECEMBER 18), 1963  
Read twice and referred to the Committee on  
Commerce





Aug 11, 1964

15. MILITARY CONSTRUCTION APPROPRIATION BILL, 1965. House conferees were appointed on this bill, H. R. 11363. Senate conferees have already been appointed. p. 18273
16. TAXATION. House and Senate conferees were appointed on H. R. 4649, to amend the Internal Revenue Code to authorize use of certain volatile fruit-flavor concentrates in the cellar treatment of wine. p. 18273
17. COFFEE IMPORTS. House and Senate conferees were appointed on H. R. 8864, to carry out U. S. obligations under the International Coffee Agreement. p. 18273
18. BROOM IMPORTS. Passed as reported H. R. 5986, to increase the tariff on broom imports. pp. 18274-5
19. RECREATION. Passed with amendment S. 16, to provide for establishment of the Ozark National Scenic Riverways, Mo., in lieu of H. R. 1803. pp. 18351-9
20. FARM LABOR. Rep. Rosenthal criticized the Mexican farm labor program and spoke against current efforts to continue the program. pp. 18360-2
21. FOOD ADDITIVES. The Interstate and Foreign Commerce Committee voted to report (but did not actually report) H. R. 12033, to further amend the transitional provisions of the act of 1958 prohibiting the use of food additives which have not been adequately tested to establish their safety. p. D674

SENATE

22. POVERTY. Concurred in the House amendment to S. 2642, the poverty bill. This bill will now be sent to the President. pp. 18409-24
23. FOREIGN AID. Continued debate on H. R. 11380, the foreign-aid authorization bill (pp. 18426-44, 18452, 18454-62, 18464-5). Agreed, 50 to 35, to an amendment by Sen. Morse to limit to \$3,250,000,000 (Senate committee figure was \$3,466,700,000) the authorization of funds for furnishing assistance and for administrative expenses after rejecting, 37 to 52, a similar amendment by Sen. Morse with a \$3 billion limitation (pp. 18441-4, 18452, 18454-5).
24. HOUSING LOANS. Sen. McGovern praised Farmers' Home Administration for "making a major contribution to the struggle against liquidation of farm homes and farm operations" and inserted a summary of its activities in S. Dak. pp. 18466-8
25. RECREATION. Sen. Hart urged the allocation to heavily populated States of funds in the land and water conservation fund bill. pp. 18408-9
26. LANDS; RECREATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee consideration H. R. 8135, to provide for the establishment and administration of public recreational facilities at the Sanford Reservoir area, Canadian River project, Tex. p. D670
27. THE COMMERCE COMMITTEE ordered favorably reported (but did not actually report) S. 2315, to authorize the Weather Bureau to make reimbursement between appropriations made available to the Weather Bureau; H. R. 1341, requiring Government passenger-carrying motor vehicles to meet certain passenger safety standards; and H. R. 9334, to permit the use of additional standard containers for fruits and vegetables. p. D670



ITEMS IN APPENDIX

28. CONSUMERS. Extension of remarks of Rep. Sullivan urging legislation to amend the Federal Food, Drug, and Cosmetic Act for greater consumer protection, and inserting an article, "GOP Platform Attacks FDA." pp. A4229-30
29. FOREIGN AID. Rep. Gross inserted the testimony of Dr. Lewis E. Lloyd, on behalf of the Citizens Foreign Aid Committee, before the Senate Appropriations Committee, critical of the foreign aid program. pp. A4230-3
30. RECREATION. Extension of remarks of Rep. Jensen commending the development of income-producing recreation enterprises on farms and other rural lands and inserting several articles from the August issue of the Rural Areas Development Newsletter describing some of these projects. pp. A4237-8
31. PEANUTS; RESEARCH. Extension of remarks of Rep. Forrester inserting a letter written by Secretary Freeman endorsing the establishment of a National Peanut Marketing Research Laboratory. pp. A4241
32. POVERTY. Extension of remarks of Reps. Pepper and Dulski commending the poverty program. pp. A4243, A4251  
Rep. Whitener inserted an editorial, "Purpose of the Antipoverty Bill," which "sets forth the aims of the legislation." p. A4248
33. OPINION POLL. Rep. Corbett inserted the results of an opinion poll including subjects of interest to this Department. p. A4260

BILLS INTRODUCED

34. DISASTER RELIEF. S. 3112, by Sen. McCarthy, to provide additional drought disaster relief to farmers and stockmen in connection with the transportation of hay; to Agriculture and Forestry Committee. Remarks of author, pp. 18395-6  
H. R. 12311, by Rep. Long, Md., to indemnify farmers for certain hay losses; to Agriculture Committee
35. WATER RESOURCES. S. 3104, by Sen. Kuchel, to authorize investigations and reports on the water resources and requirements of the Colorado River Basin, and to protect existing economies in the course of development of such resources; to Interior and Insular Affairs Committee  
H. R. 12320 through H. R. 12335, and H. R. 12338, by seventeen representatives, to authorize investigations and reports on the water resources and requirements of the Colorado River Basin, and to protect existing economies in the course of development of such resources; to Interior and Insular Affairs Committee. Remarks of Rep. Roosevelt, pp. 18364-5
36. CENSUS. H. R. 12309, by Rep. Friedel, to provide for a mid-decade census of population in 1965 for the purpose of reapportioning the House of Representatives in compliance with recent Supreme Court decisions; to Judiciary Committee.
37. FARM LABOR. H. R. 12312, by Rep. Martin, Calif., to provide for, phase out, and to extend the use of Mexican agricultural workers under title V of the Agricultural Act of 1949, as amended; to Agriculture Committee.







Aug. 13, 1964

18. CONTAINERS. The Commerce Committee reported without amendment H. R. 9334, to amend the Standard Container Act of 1928 relating to standards of containers for fruits and vegetables, so as to permit the use of additional standard containers (S. Rept. 1429). p. 18776
19. LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION BILL, 1965. A subcommittee of the Appropriations Committee approved for full committee consideration this bill, H. R. 10809. p. D68
20. RECLAMATION. The Irrigation and Reclamation Subcommittee of the Interior and Insular Affairs Committee approved for full committee consideration the following bills: S. J. Res. 6, to cancel unpaid reimbursable construction costs of the Wind River irrigation project, Wyo., charged against certain non-Indian lands (amended); S. 770, providing for construction and operation of the Savery-Pot Hook Federal reclamation project, Colo. and Wyo. (amended); S. 3053, to increase authorizations for construction of the Riverton Federal reclamation project; and H. R. 130, providing for payment of compensation, including severance damages, for rights-of-way acquired by the U. S. in connection with reclamation projects begun after January 1, 1961. p. D689
21. AUDIT. The Judiciary Committee ordered reported (but did not actually report) H. R. 4223, to provide for the audit of accounts of private corporations established under Federal law. pp. D690-1
- HOUSE
22. RECREATION. House conferees were appointed on H. R. 3846, to establish a land and water conservation fund. Senate conferees have already been appointed. p. 18671  
The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 6925, to provide for establishment of the Canyonlands National Park, Utah. p. D692
23. INDEPENDENT OFFICES APPROPRIATION BILL, 1965. Agreed to the conference report on this bill, H. R. 11296, and acted on items in disagreement. Prior to this action rejected, 114 to 270, a motion by Rep. Wyman to recommit the bill to conference. pp. 18672-81
24. HOUSING; LOANS. Passed with amendments S. 3049, to extend and amend laws relating to housing, urban renewal, and community facilities. House conferees were appointed. H. R. 12175, a similar bill previously passed, 308 to 68, with amendments, was tabled. Generally, the bill would provide additional authorizations and funds to continue existing federally assisted housing programs for another year. Title V would authorize an \$150 million additional for direct loans under the rural housing program administered by the Farmers Home Administration. pp. 18682-733
25. RESEARCH. Received the conference report on H. R. 4364, to provide for duty-free entry of mass spectrometers for Oregon State and Wayne State universities (H. Rept. 1802). pp. 18770, 18772
26. EDUCATION. The Rules Committee reported a resolution for consideration of H. R. 11904, to amend and extend the National Defense Education Act of 1958 (p. 18772) Rep. Pucinski stated his intention to offer a series of amendments to remove from this bill sections which would prohibit institutions of higher learning from participating in more than one Federal loan program (p. 18735).



27. PUBLIC WORKS APPROPRIATION BILL, 1965. Received the conference report on this bill, H. R. 11579 (H. Rept. 1794). pp. 18762-70
28. COFFEE. Received the conference report on H. R. 8864, to implement the International Coffee Agreement (H. Rept. 1803). pp. 18770-1
29. MEAT IMPORTS. Rep. Battin spoke in favor of meat-import restrictions and asked that the "administration be willing to protect American cattlemen." pp. 18740-1  
Rep. Harvey inserted an article, "Meat Import Mischief," and stated that it "is so misleading and unfair to the beef industry that its contents should not go unchallenged." pp. 18742-3
30. FOREIGN AID. Rep. McIntire protested the "squandering of taxpayers' money" for the foreign-aid program. pp. 18743-4
31. TRADE EXPANSION. Rep. Moore inserted a statement on import-export policy and urged passage of legislation which would prevent further tariff reductions in all instances in which imports have, in the past 5 years, demonstrated their competitive advantage in the domestic market. pp. 18744-6
32. LABOR STANDARDS. Rep. Cleveland discussed and outlined pending wage-and-hour legislation. pp. 18746-8
33. CLAIMS. Received from USDA a report of all claims adjudicated and paid by the Department for fiscal year 1964, pursuant to the Federal Tort Claims Act. p. 18771
34. GUAM. The Rules Committee reported a resolution for consideration of H. R. 3869, to establish Federal agricultural services for Guam. p. 18772
35. ELECTRIFICATION. The "Daily Digest" states that conferees agreed to file a report on S. 1007, to guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority. p. D693
36. PUBLIC LAW 480. Rep. Findley discussed the extension of Public Law 480 and urged "careful scrutiny...to the effect of Public Law 480 on our farm commodity programs." pp. 18748-9
37. SCIENCE; TECHNOLOGY. Rep. Daddario discussed a study made by the staff of the Subcommittee on Science, Research, and Development, to assess the ways in which existing sources already available can be made more effective. p. 18753
38. LEGISLATIVE PROGRAM. Rep. Albert announced that on Fri. H. R. 11904, to amend the National Education Act, and H. R. 3869, to furnish technical agricultural assistance to Guam, will probably be considered. p. 18734

#### ITEMS IN APPENDIX

39. BUDGET; EXPENDITURES. Rep. Evins commended and inserted a report on an interview with Rep. Mahon "which sets forth his philosophy and provides valuable insights into the complex problems of Federal financing." pp. A4284-6
40. FARM SAFETY. Extension of remarks of Sen. Hartke urging increased efforts to promote farm safety. pp. A4286-7

## AMENDING THE STANDARD CONTAINER ACT OF 1928

AUGUST 13, 1964.—Ordered to be printed

Mr. HART, from the Committee on Commerce, submitted the following

### R E P O R T

[To accompany H.R. 9334]

The Committee on Commerce, to whom was referred the bill (H.R. 9334) to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE LEGISLATION

H.R. 9334 would amend the Standard Container Act of 1928, which established standard sizes for fruit and vegetable hampers and baskets made of wood, to require manufacturers to disclose the capacity of such containers, in quarts or bushels, and to add five additional standard sizes.

#### EXPLANATION OF THE BILL

The Standard Container Act of 1928 was enacted in response to the confusion and deception arising out of the proliferation of hamper and basket sizes for the marketing—primarily at wholesale—of fresh fruits and vegetables. Today, these traditional containers must compete with a great variety of modern containers—fiberboard cartons, nailed and wirebound crates, wooden boxes and lugs, mesh or paper bags—none of which are subject to the requirements of the Standard Container Act of 1928.

In order to enable the hamper and basket manufacturers to meet the competition from other types of containers and to eliminate any confusion in differentiating between various sized hampers and baskets, H.R. 9334, while authorizing five additional standard sized containers, would also require the manufacturer to stamp the capacity in quarts or bushels on each container manufactured under the act.

Senator Holland, the author of S. 1950, a companion measure to H.R. 9334, has urged the committee's favorable consideration of H.R. 9334.

The committee knows of no opposition to H.R. 9334.

The committee believes that the next Congress should review the Standard Container Acts of both 1916 and 1928, to determine whether all fruit and vegetable containers—not just wooden containers—should be either subject to size standardization or free of such standardization.

#### COST

Enactment of the bill would involve no cost to the Federal Government.

#### AGENCY COMMENTS

The following communications were received from interested Government agencies and were considered by the committee:

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., January 6, 1964.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of December 23, 1963, requests our comments on H.R. 9334, an act to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, and to permit the use of additional standard containers.

We have no particular information concerning the subject matter of H.R. 9334 and, if enacted, it would not affect our auditing and accounting responsibilities. Accordingly, we have no recommendations to offer.

Sincerely yours,

JOSEPH CAMPBELL,  
*Comptroller General of the United States.*

DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., February 28, 1964.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reply to your request of January 2, 1964, for a report on H.R. 9334, a bill to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

The Standard Container Act of 1928 (act of May 21, 1928, as amended; 15 U.S.C. 257–257i) establishes specific standard sizes of hampers, round stave baskets, and splint baskets which may be manufactured for use in packing and shipping fresh fruits and vegetables. The following table shows the sizes of containers now permitted under the act, together with those which would be added under H.R. 9334:



*Sizes now authorized**Sizes proposed to be added*

$\frac{1}{8}$  bushel hamper or round stave basket  
 $\frac{1}{4}$  bushel hamper or round stave basket  
 $\frac{3}{8}$  bushel hamper or round stave basket  
 $\frac{1}{2}$  bushel hamper or round stave basket  
 $\frac{5}{8}$  bushel hamper or round stave basket  
 $\frac{3}{4}$  bushel hamper or round stave basket

$\frac{1}{16}$  bushel hamper or round stave basket

1 bushel hamper or round stave basket

$\frac{7}{8}$  bushel hamper or round stave basket

$1\frac{1}{4}$  bushel hamper or round stave basket

$1\frac{1}{8}$  bushel hamper or round stave basket

$1\frac{1}{2}$  bushel hamper or round stave basket

2 bushel hamper or round stave basket

4 quart splint basket

8 quart splint basket

11 quart splint basket

12 quart splint basket

14 quart splint basket

16 quart splint basket

24 quart splint basket

32 quart splint basket

This means that if H.R. 9334 were enacted, hampers and round stave baskets could be manufactured in  $\frac{1}{8}$ -bushel intervals beginning at  $\frac{1}{8}$  bushel and running through  $1\frac{1}{4}$  bushels. In addition, a new  $\frac{1}{16}$ -bushel-size hamper or round stave basket would be authorized and two new splint basket sizes—11 quarts and 14 quarts—would be added.

In addition, H.R. 9334 contains a provision requiring that every container manufactured under the authority of the act of May 21, 1928, be clearly stamped or marked to show its capacity in quarts or bushels.

The Department has received no information from fruit and vegetable growers, shippers, receivers, or other potential users of the container sizes proposed in H.R. 9334 to indicate an interest in or need for these additional containers.

Section 4 of the act of May 21, 1928, provides that the specifications of containers covered by the act shall be approved by the Secretary of Agriculture if such containers are of the prescribed capacity and not deceptive in appearance. No samples or specifications for the new sizes of containers proposed in H.R. 9334 have been submitted to the Department and, for this reason, we are not in a position to determine whether they would be deceptive in appearance when compared with the container sizes now permitted under this act.

In order to minimize the possibility of deception, in view of the many gradations in sizes of containers that would be permitted to be manufactured under the act of May 21, 1928, if H.R. 9334 were enacted, we are fully in accord with the proposed amendment to section 5 of the act which would require that every container manufactured subject to the act of May 21, 1928, shall have the capacity in bushels or quarts clearly stamped or marked thereon.

The packages authorized under the Standard Container Act of 1928 are primarily shipping containers, used in wholesale trading, and with the exception of the smaller sizes are not used as retail packages. At the time the Standard Container Act of 1928 was enacted, a substantial portion of the fresh fruits and vegetables which entered interstate commerce were packed in the hampers, round stave baskets, and splint baskets covered by the act. In the more than 35



intervening years, great changes have taken place in the containers used for shipping fruits and vegetables. Of the large number of containers now widely used, such as fiberboard cartons, wirebound and nailed crates, wooden boxes and lugs, and mesh and paper bags, some were not even in use for fruits and vegetables at the time the act was passed. Especially since the end of World War II, there has been a great increase in the number of different types and sizes of containers manufactured. There are no restrictions by Federal law on the shape, size, or capacity of containers used to pack or ship fresh fruits and vegetables, except hampers, baskets, and barrels.

The proponents of H.R. 9334 state that the principal reason for requesting authority for the manufacture of five additional sizes of containers subject to the act is to meet the competition from non-regulated types of containers. We believe that this bill should be considered in the light of the overall use of containers for marketing fresh fruits and vegetables. Largely because of the growth in the use of containers not covered by the Standard Container Act, it is estimated that less than 10 percent of the fresh fruits and vegetables shipped in interstate commerce now are packed in containers regulated under the act of 1928. For this reason, we believe that the Standard Container Act of 1928 has outlived its usefulness and should be repealed.

This Department's budget for 1965 contains a proposal to repeal both the Standard Container Act of 1916 and the Standard Container Act of 1928.

The Bureau of the Budget advises there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,  
*Secretary.*

JANUARY 17, 1964.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: This report on H.R. 9334, a bill to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers, is submitted in response to your letter of January 2, 1964.

The act of May 21, 1928 (15 U.S.C. 257) established standards as to content in terms of bushels and fractions thereof, or of quarts, and in cubic inches, of hampers, round stave baskets and splint baskets for fruits and vegetables, provided that manufacturers' specifications for such containers should be submitted to and approved by the Secretary of Agriculture, and fixed penalties for violation of the standards established by the act.

The purpose of H.R. 9334 is to add five new sizes to the group of standard containers provided for in the 1928 act, to establish their legal content in terms of cubic inches, and to require the marking of containers with their capacities in bushels or quarts. The new container sizes are the  $\frac{1}{16}$ -bushel, the  $\frac{1}{8}$ -bushel, and the  $1\frac{1}{2}$ -bushel hamper or round stave basket, and the 11-quart and the 14-quart splint basket.

The Department of State perceives no objection, from the standpoint of the conduct of the foreign relations of the United States, to the enactment of H.R. 9334.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,

FREDERICK G. DUTTON,  
*Assistant Secretary*  
(For the Secretary of State).

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THE GENERAL COUNSEL OF THE TREASURY,  
*Washington, D.C., January 16, 1964.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 9334, to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables to permit the use of additional standard containers.

The proposed legislation would amend the so-called Standard Container Act which established standard sizes for certain fruit and vegetable containers made of wood, by adding to the act five new standard sizes and by requiring manufacturers to stamp the capacity on each container permitted to be manufactured under the act.

Since the proposed legislation relates to matters not primarily within the jurisdiction of this Department, the Treasury has no comment to make on the bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

G. D'ANDELOT BELIN,  
*General Counsel.*

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FEDERAL TRADE COMMISSION,  
*Washington D.C., March 2, 1964.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of January 2, 1964, requesting our views on H.R. 9334, 88th Congress, 1st session, a bill to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

As we interpret the purpose of this bill, it is to enable the manufacturers of the hampers, round stave baskets or splint baskets to manufacture containers of different sizes than those now permitted by the Standard Container Act. We understand that the need for these additional sizes is that there are a great number of other types of containers, which can be used in lieu of those covered by the Standard Container Act, for shipping fresh fruits and vegetables. In order for hampers and baskets to be in a position to compete with these

other types of containers, we understand it is necessary that the Container Act be amended, in the manner set forth in the subject bill, permitting these new sizes for hampers and baskets.

Since the basket containers, to which the proposed legislation applies, are used primarily for shipping and not for consumer packaging, the Commission is not directly concerned with their sizes. Also, the Commission does not feel that it is in a position to express any views concerning the necessity of the proposed legislation.

The Commission, however, notes that section 3 of the bill makes it unlawful to manufacture for sale or shipment, to offer for sale, to sell, or to offer for shipment, etc., the hampers and baskets, covered by the terms of the bill, unless their capacity, whether filled or unfilled, is clearly marked or stamped thereon. This would, in our opinion, obviate any possible deception as to the exact amount of fruits and vegetables in the hamper or basket should a consumer purchase these products in the original shipping container.

By direction of the Commission.

PAUL RAND DIXON,  
*Chairman.*

N.B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on February 26, 1964, and on February 28, 1964, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the administration's program.

JOSEPH W. SHEA,  
*Secretary.*

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GENERAL SERVICES ADMINISTRATION,  
*Washington, D.C., January 21, 1964.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of January 2, 1964, requested the views of the General Services Administration on H.R. 9334, 88th Congress, an act to amend the act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

The purpose of the bill is stated in the title.

The Federal Supply Service of the General Services Administration develops plans, policies, and procedures to implement on a Government-wide basis the Federal commodity standardization program. As the proposed legislation, which would provide additional sizes of standard containers, would not adversely affect GSA's current or planned specifications and standards, GSA would not object to enactment of H.R. 9334.

The enactment of this measure would not affect the budgetary requirements of GSA.

The Bureau of the Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely yours,

LAWSON B. KNOTT, Jr.,  
*Acting Administrator.*



In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

## EXISTING LAW

Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes (15 U.S.C. 257)

SEC. 1. The standard hampers and round stave baskets for fruits and vegetables shall be of the following capacities: One-eighth bushel, one-fourth bushel, three-eighths bushel, one-half bushel, three-fourths bushel, one bushel, one and one-fourth bushels, one and one-half bushels, and two bushels, which, respectively, shall be of the cubic content set forth in this section. For the purposes of sections 257-257i of this title a bushel, standard dry measure, has a capacity of two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(a) The standard one-eighth-bushel hamper or round stave basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The standard one-flurth-bushel hamper or round stave basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(bb) The standard three-eighths bushel hamper or round stave basket shall contain eight hundred and six and four-tenths cubic inches.

(2) by inserting "seven-eighths bushel," immediately after "three-fourths bushel,"; and

## H. R. 9334

That (a) the first sentence of the first section of the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (15 U.S.C. 257), is amended—

(1) by striking out "One-eighth bushel" and inserting in lieu thereof "One-sixteenth bushel, one-eighth bushel";



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## EXISTING LAW

(3) by inserting "one-and-one-eighth bushels," immediately after "one bushel,".

(b) The first section of such Act of May 21, 1928 (15 U.S.C. 257), is further amended—

(1) by redesignating paragraph (a) as paragraph (aa) and by inserting immediately preceding such paragraph the following new paragraph:

"(a) The standard one-sixteenth bushel hamper or round stave basket shall contain one hundred and thirty-four and four-tenths cubic inches.";

(c) The standard one-half bushel hamper or round stave basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(cc) The standard five-eighths bushel hamper or round stave basket shall contain one thousand three hundred and forty-four cubic inches.

(d) The standard three-fourths-bushel hamper or round stave basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(e) The standard one-bushel hamper or round stave basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

\* \* \*

SEC. 2. The standard splint baskets for fruits and vegetables shall be the four-quart basket, eight-quart basket, twelve-quart basket, sixteen-quart basket, twenty-four quart basket, and thirty-two quart basket, standard dry measure. For the purpose of sections 257-257i of this title a quart standard dry measure has a capacity of

(2) by inserting immediately after paragraph (d) the following new paragraph:

"(dd) The standard seven-eighths bushel hamper or round stave basket shall contain one thousand eight hundred and eighty-one and sixty-two and one-hundredths cubic inches."; and

(3) by inserting immediately after paragraph (e) the following new paragraph:

"(ee) The standard one-and-one-eighth bushel hamper or round stave basket shall contain two thousand four hundred and nineteen and twenty-two one-hundredths cubic inches."

sixty-seven and two-tenths cubic inches.

(a) The four-quart splint basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The eight-quart splint basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(c) The twelve-quart splint basket shall contain eight hundred and six and four-tenths cubic inches.

\* \* \*

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "eleven-quart basket," immediately after "eight-quart basket," and by inserting "fourteen-quart basket," immediately after "twelve-quart basket,".

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (b) the following new paragraph:

"(bb) The eleven-quart splint basket shall contain seven hundred and thirty-nine and two-tenths cubic inches."

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d), which precedes the word "*Provided*," be amended to read as follows:

"That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets

SEC. 5. It shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets that do not comply with sections 257-257i of this title:

EXISTING LAW

H. R. 9334

for fruits or vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act."

O







Calendar No. 1364

88TH CONGRESS  
2D SESSION

# H. R. 9334

[Report No. 1429]

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 18), 1963

Read twice and referred to the Committee on Commerce

AUGUST 13, 1964

Reported by Mr. HART, without amendment

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## AN ACT

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) the first sentence of the first section of the Act  
4       entitled "An Act to fix standards for hampers, round stave  
5       baskets, and splint baskets for fruits and vegetables, and for  
6       other purposes", approved May 21, 1928 (15 U.S.C. 257),  
7       is amended—

8               (1) by striking out "One-eighth bushel" and insert-  
9       ing in lieu thereof "One-sixteenth bushel, one-eighth  
10       bushel";

1           (2) by inserting "seven-eighths bushel," immedi-  
2 ately after "three-fourths bushel,"; and

3           (3) by inserting "one-and-one-eighth bushels,"  
4 immediately after "one bushel,".

5           (b) The first section of such Act of May 21, 1928 (15  
6 U.S.C. 257), is further amended—

7           (1) by redesignating paragraph (a) as paragraph  
8 (aa) and by inserting immediately preceding such  
9 paragraph the following new paragraph:

10          “(a) The standard one-sixteenth bushel hamper or  
11 round stave basket shall contain one hundred and thirty-four  
12 and four-tenths cubic inches.”;

13           (2) by inserting immediately after paragraph (d)  
14 the following new paragraph:

15          “(dd) The standard seven-eighths bushel hamper or  
16 round stave basket shall contain one thousand eight hundred  
17 and eighty-one and sixty-two one-hundredths cubic inches.”;  
18 and

19           (3) by inserting immediately after paragraph (e)  
20 the following new paragraph:

21          “(ee) The standard one-and-one-eighth bushel hamper  
22 or round stave basket shall contain two thousand four hun-  
23 dred and nineteen and twenty-two one-hundredths cubic  
24 inches.”

25          SEC. 2. (a) The first sentence of section 2 of such Act

1 of May 21, 1928 (15 U.S.C. 257a), is amended by insert-  
2 ing "eleven-quart basket," immediately after "eight-quart  
3 basket," and by inserting "fourteen-quart basket," imme-  
4 diately after "twelve-quart basket,".

5 (b) Section 2 of such Act of May 21, 1928 (15  
6 U.S.C. 257a), is further amended by inserting immediately  
7 after paragraph (b) the following new paragraph:

8 " (bb) The eleven-quart splint basket shall contain seven  
9 hundred and thirty-nine and two-tenths cubic inches."

10 (c) Section 2 of such Act of May 21, 1928 (15  
11 U.S.C. 257a), is further amended by inserting immediately  
12 after paragraph (c) the following new paragraph:

13 " (cc) The fourteen-quart splint basket shall contain nine  
14 hundred and forty and eight-tenths cubic inches."

15 SEC. 3. That so much of the first sentence of section 5  
16 of such Act of May 21, 1928 (15 U.S.C. 257d), which  
17 precedes the word "*Provided*" be amended to read as  
18 follows:

19 "That it shall be unlawful to manufacture for sale or  
20 shipment, to offer for sale, to sell, to offer for shipment, or  
21 to ship, hampers, round stave baskets, or splint baskets for  
22 fruits or vegetables, either filled or unfilled that do not have  
23 the capacity in bushels or quarts clearly stamped or marked  
24 thereon and do not otherwise comply with this Act, or parts



1 of such hampers, round stave baskets, or splint baskets that  
 2 do not comply with this Act:"

Passed the House of Representatives December 17, 1963.

Attest: RALPH R. ROBERTS,  
*Clerk.*

Calendar No. 1364

88TH CONGRESS  
 2D SESSION

**H. R. 9334**

[Report No. 1429]

## AN ACT

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

DECEMBER 19 (legislative day, DECEMBER 18), 1963

Read twice and referred to the Committee on Commerce

August 13, 1964

Reported without amendment





*Senate*

-3-

*August 14, 1964*

11. ADJOURNED until Mon., Aug. 17. p. 191905

HOUSE - Aug. 15

12. STATE, JUSTICE, COMMERCE, JUDICIARY APPROPRIATION BILL, 1965. The "Daily Digest" states that the conferees agreed to file a report on this bill, H. R. 11134. p. D702

SENATE - Aug. 14

13. INDEPENDENT OFFICES APPROPRIATION BILL, 1965. Agreed to the conference report on this bill, H. R. 11296, and concurred in House amendments to two items in disagreement. This bill will now be sent to the President. pp. 18929-34

14. HOUSING. Disagreed to the House amendment to S. 3049, the housing bill. Conferees were appointed. pp. 18980-90

15. POVERTY. Sen. Simpson inserted an article critical of the poverty bill. pp. 18920-1

16. FOREIGN AID. Continued debate on H. R. 11380, the foreign-aid authorization bill. pp. 18935-49, 18954-68, 18993-9, 19001-12

17. NATIONAL PARK. Concurred in the House amendments to S. 16, establishing the Ozark National Rivers, Mo. This bill will now be sent to the President. pp. 18999-19000

Passed without amendment H. R. 946, to authorize the establishment of the Fort Bowie National Historic Site, Ariz. This bill will now be sent to the President. p. 19001

18. ELECTRIFICATION. Concurred in the House amendment to S. 502, to preserve the jurisdiction of the Congress over construction of hydroelectric projects on the Colorado River below Glen Canyon Dam. This bill will now be sent to the President. pp. 19000-1

19. ACCOUNTING. Passed without amendment H. R. 10446, to permit the use of statistical sampling procedures in the examination of vouchers. This bill will now be sent to the President. p. 19014

20. CLAIMS. Passed as reported H. R. 6910, to provide for the settlement of claims against the U. S. by members of the uniformed services and civilian officers and employees of the U. S. for damage to, or loss of, personal property incident to their service. p. 19014

Received a letter from this Department reporting tort claims paid in fiscal year 1964; to Judiciary Committee. p. 18903

21. CONTAINERS. Passed without amendment H. R. 9334, to amend the Standard Container Act of 1928 relating to standards of containers for fruits and vegetables, so as to permit the use of additional standard containers. This bill will now be sent to the President. p. 19015

22. ECONOMICS. Sen. Humphrey inserted his statement supporting S. 2274, to establish a National Economic Conversion Commission. pp. 19018-20

23. HOLIDAY. The Judiciary Committee reported without amendment S. 108, making Columbus Day a legal holiday (S. Rept. 1438). p. 18903

24. VEHICLES. The Commerce Committee reported without amendment H. R. 1341, to re-



quire passenger-carrying motor vehicles purchased for use by the Federal Government to meet certain safety standards (S. Rept. 1440). p. 18903

25. EDUCATION. The Labor and Public Welfare Committee ordered reported (but did not actually report) an original bill, the higher education student assistance bill of 1964. p. D697

SENATE - Aug. 15

26. PUBLIC LANDS. The Interior and Insular Affairs Committee reported with amendments H. R. 8070, to establish a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the U. S. (S. Rept. 1444). p. 19108
27. AUDIT. Passed without amendment H. R. 4223, to provide for an audit of accounts of private corporations established under Federal law. This bill will now be sent to the President. p. 19133
28. HOLIDAY. Passed without amendment S. 108, making Columbus Day a legal holiday. p. 19136
29. FOREIGN AID. Continued debate on H. R. 11380, the foreign-aid authorization bill. pp. 19123-8, 19140-5, 19147-50
30. FISH PROTEIN. Sen. Douglas urged approval for sale of high protein fish concentrate. pp. 19116-7
31. PAY. Sen. Johnston inserted the remarks of President Johnson when he signed the pay bill. p. 19151
32. EXPOSITIONS. Passed without amendment S. J. Res. 162, authorizing the President to call upon the States and foreign countries in the International Exposition for southern Calif. p. 19128

ITEMS IN APPENDIX

33. MEAT IMPORTS. Extension of remarks of Rep. Burke opposing the meat-import restriction bill, and stating "the rigid import bill will not help the cattlemen, and at the same time it will adversely affect our farm and industrial exports." pp. A4313-4
34. HOLIDAY. Extension of remarks of Rep. Carey expressing his support for the bill to make Columbus Day a national holiday. pp. A4316-7
35. APPALACHIA; ROADS. Extension of remarks of Rep. Saylor inserting correspondence with the Dept. of Commerce concerning his proposal that all highways in the Appalachia region be constructed on a 20-percent Federal and 10-percent State ration. pp. A4319-20
36. POVERTY. Rep. Edmondson inserted Sargent Shriver's address before Georgetown University in which he discussed the Peace Corps and the proposed poverty program. pp. A4324-6
37. FOOD STAMPS. Rep. Sullivan inserted an article, "Congress Clears Food Stamp Plan for the Needy--Nationwide Program Would Provide Assistance for Any Area Asking It." p. A4330



for the fiscal year ended June 30, 1963, transmitted to the Congress on February 14, 1964. The report of the House Committee on Government Operations on H.R. 10705 (H. Rept. 1419, 88th Cong.) contains the following explanation and background in support of the bill.

"The Federal Home Loan Bank Board is vested with the direction of the Federal Savings and Loan Insurance Corporation and the supervision of the Federal home loan banks. The Federal Home Loan Bank Act requires the Board to make annually a report of its operations (including those of the banks and of the Federal Savings and Loan Insurance Corporation) to the Congress as soon as practicable after the 1st day of January in each year.

"The Federal home loan banks maintain their accounting and financial records on a calendar year basis. They also prepare their financial statements (which are included in the Federal Home Loan Bank Board's annual reports to the Congress), on a calendar year basis.

"In complying with the auditing and reporting requirements of the Government Corporation Control Act, the General Accounting Office must recompute the calendar year based operating statements of the banks and convert them to reflect fiscal year operations.

"The normal basic starting points of GAO audits are the financial statements of the organizations under audit. Where the statements are calendar year based, but the GAO is required to audit and report on a fiscal year basis, the statements must first be converted, item by item, to the fiscal year basis before the audit is begun. At the hearing on the bill it was stated that in preparing to audit the Federal home loan banks the GAO must first convert some 600 items, which make up the banks' statements, from the calendar to the fiscal year basis, a chore estimated as requiring at least 2 weeks' work by 1 man. Such costly and time-consuming conversions would be obviated by the bill, because GAO audit on a calendar year basis would start with the banks' calendar year statements.

"In addition to so facilitating the audits, the financial statements would be more meaningful, for the calendar year is the normal business year of the banks, and coincides with the accounting and financial year observed generally by the savings and loan associations and other members of the Federal home loan banks.

"The Federal Savings and Loan Insurance Corporation's financial statements on a calendar year basis are included in the annual reports which the Federal Home Loan Bank Board makes to the Congress. The same considerations which make it desirable that the audits and reports to the Congress on the banks be on a calendar year basis apply to the financial transactions of the Federal Savings and Loan Insurance Corporation.

"The bill will permit the performance of audits of the Federal home loan banks, the Federal Savings and Loan Insurance Corporation, and the Federal Home Loan Bank Board at one time, with one crew, and probably in one place. No additional effort or expense on the part of the audited organizations is required. Increased efficiency will result from the legislation, as well as savings in effort and manpower.

#### PAYMENT FOR EXPENSES OF FEDERAL EMPLOYEES ASSIGNED TO DUTY ON THE CALIFORNIA OFFSHORE ISLANDS

The bill (H.R. 11211) to provide authority for the payment of certain amounts to offset certain expenses of Federal employees assigned to duty on

the California offshore islands, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

#### EXCERPT FROM REPORT

The purpose of H.R. 11211 is to remedy an inequity resulting from a decision of the Comptroller General of the United States in declaring invalid per diem payments for necessary subsistence expenses the Navy Department had been making over a period of years to civilian employees assigned to duty on certain islands off the coast of California. No per diem is now being paid and the employees involved will have to return to the Government all past payments received unless this legislation is enacted. This bill would validate the payments which have been made and provide a method of compensating these employees for necessary out-of-pocket expenses in the future and during the interim between the time per diem was cut off (in most cases, May 4, 1964) and the effective date of this bill.

#### BILL PASSED OVER

The bill (H.R. 5739) to amend the Internal Revenue Code of 1954 to correct certain inequities with respect to the taxation of life insurance companies was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

On motion by Mr. MANSFIELD, the following bills were considered and acted on, and excerpts from the reports were ordered printed in the RECORD, as follows:

#### STANDARDS OF CONTAINERS FOR FRUITS AND VEGETABLES

The bill (H.R. 9334) to amend the act of May 31, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers, was considered, ordered to a third reading, read the third time, and passed.

#### EXCERPT FROM REPORT

##### PURPOSE OF THE LEGISLATION

H.R. 9334 would amend the Standard Container Act of 1928, which established standard sizes for fruit and vegetable hampers and baskets made of wood, to require manufacturers to disclose the capacity of such containers, in quarts or bushels, and to add five additional standard sizes.

##### EXPLANATION OF THE BILL

The Standard Container Act of 1928 was enacted in response to the confusion and deception arising out of the proliferation of hamper and basket sizes for the marketing—primarily at wholesale—of fresh fruits and vegetables. Today, these traditional containers must compete with a great variety of modern containers—fiberboard cartons, nailed and wirebound crates, wooden boxes and lugs, mesh or paper bags—none of which are subject to the requirements of the Standard Container Act of 1928.

In order to enable the hamper and basket manufacturers to meet the competition from other types of containers and to eliminate any confusion in differentiating between various sized hampers and baskets, H.R. 9334, while authorizing five additional standard sized containers, would also require the manufacturer to stamp the capacity in quarts or bushels on each container manufactured under the act.

Senator HOLLAND, the author of S. 1950, a companion measure to H.R. 9334, has urged

the committee's favorable consideration of H.R. 9334.

The committee knows of no opposition to H.R. 9334.

The committee believes that the next Congress should review the Standard Container Acts of both 1916 and 1928, to determine whether all fruit and vegetable containers—not just wooden containers—should be either subject to size standardization or free of such standardization.

#### COST

Enactment of the bill would involve no cost to the Federal Government.

#### TAX EXEMPTION OF CERTAIN PROPERTY OF THE UNITED SUPREME COUNCIL, 33D DEGREE, ANCIENT AND ACCEPTED SCOTTISH RITE OF FREEMASONRY, SOUTHERN JURISDICTION—PRINCE HALL AFFILIATION

The bill (H.R. 11652) to exempt from taxation certain property of the United Supreme Council, 33d Degree, Ancient and Accepted Scottish Rite of Freemasonry, Southern Jurisdiction—Prince Hall Affiliation, was considered, ordered and passed.

#### EXCERPT FROM REPORT

##### PURPOSE OF THE BILL

The purpose of this bill is to exempt certain real property belonging to the United Supreme Council, 33d Degree, Ancient and Accepted Scottish Rite of Freemasonry, Southern Jurisdiction—Prince Hall Affiliation, from District of Columbia real estate taxation.

At present, this property consists only of unimproved land located at East Capitol Street and Texas Avenue NE., with an assessed value of \$12,184 and a present annual tax of \$304.60. However, this organization plans to erect a headquarters building on this land, at a cost estimated between \$550,000 and \$800,000. The tax exemption provided in this proposed legislation would not become effective until the first day of the fiscal year next following the completion of construction of this new building. Thus, the exemptions will apply to the improvements as well as to the land, as long as the property is owned and occupied by the United Supreme Council, 33d Degree, Ancient and Accepted Scottish Rite of Freemasonry, Southern Jurisdiction—Prince Hall Affiliation, and is not used for commercial purposes.

#### AMENDMENT TO DISTRICT OF COLUMBIA SALES TAX ACT RELATING TO CERTAIN SALES TO COMMON CARRIERS OR SLEEPING-CAR COMPANIES

The Senate proceeded to consider the bill (H.R. 8451) to amend the District of Columbia Sales Tax Act, as amended, relating to certain sales to common carriers or sleeping-car companies, which had been reported from the Committee on the District of Columbia, with an amendment, on page 1, after line 6, to strike out:

"(5) Sales to a common carrier or sleeping-car company by a corporation all of whose capital stock is owned by one or more common carriers or sleeping-car companies, of tangible personal property intended for use principally without the District in the course of interstate commerce, or commerce between the District and a State, in or upon, or as part of any train, aircraft, or boat, pro-



vided such sales are made in connection with the furnishing of terminal services, and facilities, including repairs of transportation equipment, pursuant to a written agreement entered into before January 1, 1963."

And, in lieu thereof, to insert:

"(5) Sales to a common carrier or sleeping-car company by a corporation all of whose capital stock is owned by one or more common carriers or sleeping-car companies of tangible personal property, procured or acquired by such corporation outside the District, which consists of repair or replacement parts used for the maintenance or repair of any train operating principally without the District in the course of interstate commerce, or commerce between the District and a State, provided such sales are made in connection with the furnishing of terminal services pursuant to a written agreement entered into before January 1, 1963."

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

#### EXCERPT FROM REPORT THE PURPOSE OF THE BILL

The purpose of the bill is to amend the District of Columbia Sales Tax Act (63 Stat. 112) to exempt certain sales of tangible personal property used in the repair of railroad equipment by the Washington Terminal Co.

The Washington Terminal Co. was created by act of Congress in 1901. Prior thereto, each of the several railroads coming into Washington had its own railroad station, and this act required these railroads to construct a Union Station which would provide a single terminal facility suitable to the Nation's Capital.

Because of the practical difficulties and complexities which would inevitably have arisen from common ownership and the use of a single terminal by several railroads, a separate corporation was necessary in order to provide unified, efficient operation of the terminal properties.

All the stock of the Washington Terminal Co. is owned, in equal shares, by the Pennsylvania Railroad Co. and the Baltimore & Ohio Railroad Co. However, the Terminal Co. also serves all the other railroads arriving at or departing from Washington. These are the Southern Railway Co., the Chesapeake & Ohio Railway Co., and the Richmond, Fredericksburg & Potomac Railroad Co. By virtue of an agreement with that last company, trains of the Atlantic Coast Line Railroad and Seaboard Air Line Railroad Co. also operate into the District of Columbia station.

The Union Station in Washington constitutes the terminating point for each of the railroads using its facilities. That is, the Pennsylvania Railroad and the Baltimore & Ohio Railroad do not operate south of Washington and the other lines named above do not operate north of this city. Also, there are no railroad operations from one point to another in the District. Hence, all service consists of interstate commerce between the District and another State or States. Also, the Washington Terminal Co.'s operations are concerned solely with passenger traffic.

The operations of the Washington Terminal Co. are carried on under an agreement with its tenant roads, which provides that the Terminal Co. shall operate and maintain the station, provide terminal services for trains coming into the station, and service and repair the equipment of the railroads using the station. The railroads pay a rental for the use of the station, and reimburse the Terminal Co. for its expenses.

The Terminal Co. maintains a large service and repair facility north of the station prop-

er. Here, among other services, the company makes such repairs as may be necessary to the cars and locomotives in order to keep them in proper condition for interstate operation. Such repairs include installing new generators for locomotives, repairing broken windows or torn upholstery in cars, and generally performing whatever work may be needed. In general, however, the work done in Washington is confined to "running repairs" sufficient only to enable the equipment to return to the railroads' own shops elsewhere.

In order to effect maximum efficiency and economy, the Terminal Co. acts as a common purchasing agent for the railroads. Items which are generally usable by several railroads are purchased by the Terminal Co. from regular sources of supply and are maintained in a stockpile or inventory. When a railroad requires an item, the Terminal Co. installs it on the car or locomotive and charges the railroad the amount of the company's cost, plus a handling charge and the cost of the installation. In the case of items peculiar to one railroad, a somewhat different procedure may be followed. Often the railroad involved may have the needed item in its own inventory. In this case, it will transfer the item to the Terminal Co. at a determined price, and when it is installed, the company charges the railroad the same price, plus handling charges and installation costs. Hence, all items installed by the Terminal Co. on the equipment of the railroads become technically a part of its inventory before being charged out to the railroads.

Thus, this exchange of property is actually only a paper transaction rather than an actual sale, involving little more than reciprocal bookkeeping entries.

Today, the Washington Terminal Co. employs some 2,000 people, with an annual payroll of approximately \$14 million, and pays \$200,000 annually to the District of Columbia in property taxes.

#### AMENDMENT TO LIFE INSURANCE COMPANY ACT OF THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 8355) to amend the Life Insurance Company Act of the District of Columbia (48 Stat. 1145), approved June 19, 1934, as amended, which had been reported from the Committee on the District of Columbia, with an amendment, on page 4, line 6, after the word "company;" to strike out "(c) no option shall be granted to any individual within two years following the termination of his employment with an insurance company authorized to do business in the District of Columbia, other than the company granting the option or a subsidiary of the company granting the option" and insert "(c) no option shall be promised or granted (1) to any individual employed by an insurance company authorized to do business in the District of Columbia (other than the company promising or granting the option or a subsidiary of the company promising or granting the option) while that individual is so employed, or (2) to any individual within two years following the termination of his employment with such an insurance company".

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

#### EXCERPT FROM REPORT

The purpose of H.R. 8355 is to amend the Life Insurance Act of the District of Columbia (48 Stat. 1145; D.C. Code, sec. 35-508) in three particulars by (1) increasing the capital stock requirements of life insurance companies, (2) permitting changes in the corporate charter with the consent of stockholders representing two-thirds of the voting stock, and (3) authorizing the retention by insurance companies of unissued stock for certain limited purposes.

The first amendment in the bill relates to section 8 of the Life Insurance Act which now requires that capital stock life insurance companies organized under District of Columbia law must have a minimum paid-up capital stock of \$100,000, plus paid-up surplus equal to 50 percent of the capital stock.

This minimum figure of \$100,000 was established in 1934, and no longer represents a realistic minimum requirement for a life insurance company. This bill adopts a more realistic minimum requirement in the amount of \$200,000. Twenty-five States now require \$200,000 or higher capital stock assets for life insurance companies. Also, Congress in 1940 (54 Stat. 1070; D.C. Code, sec. 35-1316) increased from \$10,000 to \$150,000 the amount of capital required of a fire and casualty insurance company.

The bill contains a "grandfather clause," so that in all fairness the bill will not impose any increase of capital requirements in the case of existing life insurance companies, either domestic or foreign.

Section 2 of the bill would amend section 35 of the Life Insurance Act dealing with authorized investments, in order to conform it to the change in the required capital.

Section 3 of the bill would amend section 9 of the Life Insurance Act in order to clarify the procedure by which the corporate charter may be amended. The present language of the law could be construed to require the written consent of two-thirds of the stockholders to a charter amendment, regardless of the number of shares which such stockholders may represent. This bill would make it clear that amendments require the consent of stockholders representing at least two-thirds of the voting stock; and in this respect, the bill subscribes to generally accepted corporate practice.

Section 4 of the bill amends section 10 of the Life Insurance Act which now requires that all shares of authorized capital stock of a District life insurance company must be issued within 1 year, unless an extension of time is granted by the Superintendent of Insurance. The bill would permit life insurance companies to retain authorized but unissued stock for certain limited purposes, namely, the acquisition of ownership or control of another life insurance company, the granting of stock options, and the payment of stock dividends. The bill imposes certain protective restrictions upon the authorization of additional shares for any of these three purposes:

(1) Acquisitions of another insurance company will require approval of the stockholders by a majority vote, and must also be approved by the Superintendent of Insurance under last year's amendment to the insurance law.

(2) The authorization of shares for stock options to officers and employees would be subject to limitations designed to assure that only reasonable use would be made of stock options. For example, no more than 5 percent of the total authorized shares may be used for stock options and no more than 10 percent of the total shares optioned may be granted to any one individual. Second, options may not be granted or promised to an employee of another insurance company licensed in the District of Columbia until 2 years after termination of his employment with such company. Third, the option price must be at least 95 percent of the fair market









Public Law 88-516  
88th Congress, H. R. 9334  
August 30, 1964

## An Act

78 STAT. 697.

To amend the Act of May 21, 1928, relating to standards of containers for fruits and vegetables, to permit the use of additional standard containers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) the first sentence of the first section of the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (15 U.S.C. 257), is amended—

Fruit and vegetable containers. Standards.

45 Stat. 685.

(1) by striking out "One-eighth bushel" and inserting in lieu thereof "One-sixteenth bushel, one-eighth bushel";

(2) by inserting "seven-eighths bushel," immediately after "three-fourths bushel,"; and

(3) by inserting "one-and-one-eighth bushels," immediately after "one bushel,".

(b) The first section of such Act of May 21, 1928 (15 U.S.C. 257), is further amended—

(1) by redesignating paragraph (a) as paragraph (aa) and by inserting immediately preceding such paragraph the following new paragraph:

"(a) The standard one-sixteenth bushel hamper or round stave basket shall contain one hundred and thirty-four and four-tenths cubic inches.";

(2) by inserting immediately after paragraph (d) the following new paragraph:

"(dd) The standard seven-eighths bushel hamper or round stave basket shall contain one thousand eight hundred and eighty-one and sixty-two one-hundredths cubic inches."; and

(3) by inserting immediately after paragraph (e) the following new paragraph:

"(ee) The standard one-and-one-eighth bushel hamper or round stave basket shall contain two thousand four hundred and nineteen and twenty-two one-hundredths cubic inches."

SEC. 2. (a) The first sentence of section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is amended by inserting "eleven-quart basket," immediately after "eight-quart basket," and by inserting "fourteen-quart basket," immediately after "twelve-quart basket,".

(b) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (b) the following new paragraph:

"(bb) The eleven-quart splint basket shall contain seven hundred and thirty-nine and two-tenths cubic inches."

(c) Section 2 of such Act of May 21, 1928 (15 U.S.C. 257a), is further amended by inserting immediately after paragraph (c) the following new paragraph:

"(cc) The fourteen-quart splint basket shall contain nine hundred and forty and eight-tenths cubic inches."

45 Stat. 686.

SEC. 3. That so much of the first sentence of section 5 of such Act of May 21, 1928 (15 U.S.C. 257d), which precedes the word "*Provided*:" be amended to read as follows:

"That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled that do not have the capacity in bushels or quarts clearly stamped or marked thereon and do not otherwise comply with this Act, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this Act:"

Approved August 30, 1964.

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LEGISLATIVE HISTORY:

HOUSE REPORT No. 999 (Comm. on Science & Astronautics).

SENATE REPORT No. 1429 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 109 (1963): Dec. 17, passed House.

Vol. 110 (1964): Aug. 14, considered and passed Senate.